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Report Overview:
Total Clips (38)
Air **(9)**
Brownfields / Superfund / Other Cleanups **(6)**
Budget/Recovery Act **(1)**
Climate Change **(1)**
Energy Issues **(6)**
Research and Development **(3)**
Wastes and Hazardous Wastes **(1)**
Water **(7)**
Other **(4)**

Headline	Date	Outlet	Outlet State
Air (9)			
SUPREME COURT SEEN UNLIKELY TO GRANT REVIEW OF CWA APPELLATE FINDING	04/28/2016	Inside EPA	VA
STATES, INDUSTRY TOUT WASTE-TO-ENERGY EFFORTS BUT EQUITY CONCERNS LINGER	04/28/2016	Inside EPA	VA
EPA REGION 1 CHIEF TARGETS CLEANUPS, WATER QUALITY FOR REMAINING GOALS	04/28/2016	Inside EPA	VA
STATES FAULT EPA ON DATA, 'BACKGROUND' OZONE IN LEGAL FIGHT OVER NAAQS	04/28/2016	Inside EPA	VA
DESPITE CONCERNS, ADVOCATES DOUBT IMPACT OF SENATE BIOMASS PLAN ON EPA	04/28/2016	Inside EPA	VA
INDUSTRY COALITION, ADVOCATES WAGE COMPETING ATTACKS ON OZONE NAAQS	04/28/2016	Inside EPA	VA
EPA FACES DOUBTS OVER POWER	04/28/2016	Inside EPA	VA

TO ADDRESS GHG LIMITS FOR 'IN-USE' AIRCRAFT			
DOJ'S CRUDEN TOUTS 'PROGRESS' IN VOLKSWAGEN EMISSIONS ENFORCEMENT CASE	**04/28/2016**	**Inside EPA**	**VA**
ALGONQUIN PIPELINE	**04/24/2016**	**Milford Daily News, The**	**MA**

Brownfields / Superfund / Other Cleanups (6)

EPA paying $1 million in response costs after mine spill	**04/28/2016**	**Associated Press**	**NY**
OMB DEFERS TO EPA IN LENGTHY DISPUTE OVER ARMY'S PERCHLORATE CLEANUP	**04/28/2016**	**Inside EPA**	**VA**
EPA announces latest steps addressing Missouri landfill fire	**04/27/2016**	**Associated Press**	**NY**
Some are unhappy with EPA payment plans for mine waste spill	**04/27/2016**	**Associated Press**	**NY**
EPA: Cleanup not required at uranium mines near Edgemont	**04/26/2016**	**Associated Press**	**NY**
Vermont beefs up efforts to tackle pollution	**04/21/2016**	**Berkshire Eagle, The**	**MA**

Budget/Recovery Act (1)

House GOP Eyes EPA Budget Cuts, Regulatory Reform For FY17 Agenda	**04/28/2016**	**Inside EPA**	**VA**

Climate Change (1)

Feds deciding if coal-export project violates tribal rights	**04/24/2016**	**Advocate Online, The**	**CT**

Energy Issues (6)

SENATE WRDA BILL SEEKS TO BOLSTER WATER INFRASTRUCTURE FUNDING, POLICY	**04/28/2016**	**Inside EPA**	**VA**
Opponents of proposed oil pipeline holding 500-mile relay	**04/27/2016**	**Associated Press**	**NY**
L.I. Sound dredging plan continues	**04/27/2016**	**Connecticut Post**	**CT**
EPA Plans Open-Water Dredge Disposal Site Off New London	**04/27/2016**	**Hartford Courant Online**	**CT**
Murray Energy continues fight against EPA's emissions rules	**04/25/2016**	**Associated Press**	**NY**

Northern Pass vs. souls and sales	**04/25/2016**	**Hampton Union - Online, The**	**NH**

Research and Development (3)

ADVISORS SPLIT OVER EPA PLAN TO USE HUMAN DATA TO REGULATE INSECTICIDE	**04/28/2016**	**Inside EPA**	**VA**
DRAFT EPA PESTICIDE REVIEW CITING BEE RISK GENERATES COMPETING CONCERNS	**04/28/2016**	**Inside EPA**	**VA**
EPA SEEKS COMPANIES' DATA FOR ALTERNATE SKIN TOXICITY TEST ANALYSES	**04/28/2016**	**Inside EPA**	**VA**

Wastes and Hazardous Wastes (1)

EPA Delays Hazardous Waste Facility Post-Closure Care Guide Until Fall	**04/28/2016**	**Inside EPA**	**VA**

Water (7)

CANADIAN SHIPPERS MOUNT NEW CHALLENGE TO EPA'S VESSEL GENERAL PERMIT	**04/28/2016**	**Inside EPA**	**VA**
SEN. COTTON EYES LEGISLATION TO AID FLINT PLAINTIFFS SEEKING TORT DAMAGES	**04/28/2016**	**Inside EPA**	**VA**
STATES, INDUSTRY QUESTION DEFAULTS IN DRAFT EPA WATER QUALITY METALS MODEL	**04/28/2016**	**Inside EPA**	**VA**
NACWA ASKS COURT TO SCRAP EPA 'UNDERGROUND' WATER TESTING MANDATE	**04/28/2016**	**Inside EPA**	**VA**
Schools getting $2M to help test for lead in drinking water	**04/25/2016**	**Associated Press**	**NY**
Vermont to feds: Start regulating toxics or let us do it	**04/24/2016**	**Associated Press**	**NY**
Curt Spalding: Stormwater regulations will reduce pollution in waterways	**04/22/2016**	**Berkshire Eagle, The**	**MA**

Other (4)

EPA announces latest steps addressing Missouri landfill fire	**04/28/2016**	**Advocate Online, The**	**CT**
EPA agrees to test water at Coakley landfill	**04/28/2016**	**Associated Press**	**NY**

EPA Regional Haze Rule Revisions Offer Clarity But Could Delay Air Plans

LePage vetoes proposed fix to Maine Clean Election Fund **04/25/2016 Associated Press NY**

News Headline: SUPREME COURT SEEN UNLIKELY TO GRANT REVIEW OF CWA APPELLATE FINDING |

Outlet Full Name: Inside EPA
News Text: The Supreme Court is unlikely to grant potential petitions for review of a U.S. Court of Appeals for the 6th Circuit finding that the appeals court has authority to hear suits over EPA's Clean Water Act (CWA) jurisdiction rule, observers say, as the justices will likely wait to review the CWA rule once the 6th Circuit issues a ruling on its merits.

"The Court only rarely reviews interlocutory decisions of lower courts," one industry source says. "Because the Sixth Circuit's decision does not end the petition for review, I think it unlikely that the Court would review the decision now," because the appellate litigation over the rule will likely proceed to the merits stage.

The legal fight over the rule continues even as some continue to call for legislation that would clarify the scope of the CWA, due to ongoing concerns about how EPA crafted the rule and the confusion it has created.

The 6th Circuit April 21 rejected requests from several states and industry groups to review a three-judge panel's split decision in February giving the court the power to hear suits over the jurisdiction rule, leaving a Supreme Court appeal as the last option for the rule's critics to challenge the panel's decision.

But some court watchers predict that even if groups opposing the rule petition the high court to review the ruling following rejection of full court en banc review of the panel decision in Murray Energy Corp. et al., v. EPA, at al., the justices are unlikely to weigh in on the question of whether the court has power to hear suits over the CWA rule at this stage in the litigation.

"I think the odds are very low that the Supreme Court would weigh in on the jurisdictional issue," a second industry source says, as this would just "delay the inevitable," meaning a Supreme Court case that considers the actual merits of the CWA jurisdiction rule, which was jointly crafted by EPA and the Army Corps of Engineers. Whenever a federal district or appellate court rules on the merits of the rule, it is expected to face high court appeal.

One environmentalist says that there are too many uncertainties to predict the likelihood of Supreme Court review, and that "the next big step" is briefing on the merits of the 6th Circuit suit.

"We're eager to move to the merits of the legal challenges to the Clean Water Rule," that source says, adding that there is "lots of science" to support the underlying premise of the rule: that small streams, nearby waters, and other features play a key role in aquatic ecosystems and therefore should be subject to CWA protections. That source adds, "we're confident that when the the court reviews the record and considers how the science relates to the Supreme Court's decisions, the arguments that the Clean Water rule protects too much will fail."

It is not clear if any of the petitioners will attempt to seek cert from the Supreme Court, but the first industry source says if no party seeks further review now, then it "becomes very likely" that the high court will review the merits of the rule through review of whatever the 6th Circuit ultimately decides, rather than one of the other CWA rule cases pending in the 10th and 11th Circuits that the administration is seeking to dismiss.

That source points out that the 2006 Supreme Court decision in Rapanos v. United States -- which led to competing tests for CWA jurisdiction that the rule aimed to clarify -- originated in the 6th Circuit.

Critics of the CWA jurisdiction rule also filed myriad cases in federal district courts, due to uncertainty in the water law about the correct venue for such challenges. Unlike other environmental statutes such as the Clean Air Act, the CWA mandates circuit court review only for specific types of regulations.

Section 509 of the CWA says only that suits over specific types of rules must be initiated at the appellate level, including challenges to approval or promulgation of any effluent limitation "or other limitation" under sections 301, 302, 306, or 405, permit approvals under section 402, or individual water quality control strategies under section 304 -- but the CWA jurisdiction rule does not fall within a specific section of the law.

In the 6th Circuit's Feb. 22 divided ruling Judge David McKeague said outright that the rule qualifies for appellate review under section 509 of the CWA, citing the court's 2009 ruling in National Cotton Council v. EPA, which held that section 509(b)(1)(f) authorizes direct circuit court review beyond agency actions issuing or denying particular permits. The 6th Circuit in National Cotton said the courts of appeal have direct power to review regulations governing permits under the CWA's section 402 National Pollutant Discharge Elimination System permit program.

Judge Richard Allen Griffin only supported the decision to take the case because he found it is in line with precedent established by National Cotton, but added that he believes the 2009 case was wrongly decided. He said he otherwise would have sided with the dissent that said suits over the rule should first be heard in federal district court.

Dissenting Senior Judge Keith said National Cotton should not apply, and industry challengers cited his and Griffin's statements in six separate petitions calling for en banc review of the decision.

The court clerk wrote in the April 21 order said although no judge asked for a vote on rehearing the Murray Energy decision, "Judge Keith would grant rehearing for the reasons stated in his dissent."

Keith's dissent said in reference to National Cotton that, "I believe Judge Griffin's reading of that case is wrong," and that the 2009 ruling would not confer jurisdiction to the appellate courts.

"If this court construes that holding to be so broad as to cover the facts of this case, that construction brings subsection (F) to its breaking point: a foreseeable consequence of the concurrence's reasoning is that this court would exercise original subject-matter jurisdiction over all things related to the Clean Water Act," Keith wrote.

Groups in their petitions seeking en banc review by the 6th Circuit characterized the ruling as a 1-1-1 split and argued that it creates additional legal confusion for current and future circuit cases testing the question of the proper venue for such suits and that it is ripe for review by the full circuit because the panel's disagreement over the scope of National Cotton raises questions on precedent within the circuit.

Meanwhile, senators at an April 27 Small Business Committee hearing on the CWA rule criticized the decision by EPA and the Corps not to consult with the Small Business Administration (SBA) under the Regulatory Flexibility Act (RFA), which requires agencies to consult on rules that will have "a significant adverse economic impact" on small businesses.

"I will not defend the process -- I think the Waters of the United States [rule] is clearly going to have a very dramatic and significant impact on small entities," said Sen. Heidi Heitkamp (D-ND) said during the hearing.

The senator also reiterated her call for Congress to approve a law defining U.S. waters as a way to end the fight over jurisdiction. "We all have a pretty good time beating up on regulatory agencies," but the CWA is in need of clarification, she said.

One aspect of the wide-ranging legal challenge to the CWA rule centers on whether the agencies' decision not to seek RFA consultation was legitimate. Speaking at the hearing, SBA Office of Advocacy chief counsel Darryl L. DePriest said his office maintains consultation was necessary under the RFA.

However, DePriest shied away from backing potential legislation Sen. David Vitter (R-LA) has floated that would add new requirements to the RFA, including new powers for the Government Accountability Office (GAO) to arbitrate disputes

between agencies over whether a rule qualifies for consultation. "My opinion is that would not particularly work for a few reasons. . . . I wonder whether, philsophically or policy-wise, it's good to put a congressional agency like the GAO between two executive agencies."

He also rejected Vitter's suggestion that the Office of Information and Regulatory Affairs at the White House Office of Management and Budget could serve as arbiter, and said that courts may be the best venue to decide what is often a question of statutory interpretation.

However, Vitter countered that under the current law "the agencies have no burden" to justify their decisions on whether or not to consult, and that reforms are needed.

Later in the hearing, in response to a question from Vitter on his position on arbitration, the National Association of Manufacturers' Rosario Palmieri said the group "absolutely" supports assigning the final word on RFA consultation to a third party. "We think this decision is too important to be left to an agency that is in its own self-interest to certify" that a rule has no significant adverse impacts, he said.

In her statements at the hearing, the National Federation of Independent Businesses' Elizabeth Militio called for expanding the RFA's "significant adverse economic impact" test to include indirect impacts. She said the law currently excludes rules like EPA's national ambient air quality standards since they only impose immediate requirements on states rather than regulating facilities directly. "We would be very supportive of a reform that would require agencies to consider indirect impacts," Militio said. -- Bridget DiCosmo & David LaRoss

Return to Top

News Headline: STATES, INDUSTRY TOUT WASTE-TO-ENERGY EFFORTS BUT EQUITY CONCERNS LINGER |

Outlet Full Name: Inside EPA
News Text: NASHVILLE, TN -- States and waste reuse industry groups are touting the potential economic and environmental benefits of promoting waste-to-energy efforts such as reusing coal ash or capturing landfill methane emissions, but officials say consulting with equity communities nearby on such projects will be a major factor for their viability.

Developing a waste-to-energy facility that will be located near a potential environmental justice area "is a contact sport, you can't do it from afar, you've got to be a part of the community very early in the process," said Paul Gilman, Covanta senior vice president and chief sustainability officer, at an April 12 discussion here.

Gilman, several state officials, and other industry representatives all weighed in on

using waste materials for energy purposes during the discussion at the Environmental Council of the States' (ECOS) spring meeting.

During the meeting, which took place April 10-14, ECOS -- which represents state environmental agencies -- also approved a revised resolution that it first issued in 2010 on promoting sustainable materials management at the state and federal level. Relevant documents are available on InsideEPA.com. (Doc. ID: 190464)

"Representatives of industries at various stages of maturity -- coal ash recycling, waste-to-energy, and forest products manufacturing -- will spotlight strides in curbing waste streams and promoting air quality and renewable energy and discuss how states can partner in these initiatives," said ECOS in its agenda for an April 12 discussion of "The Recovered Material Role in Sustainable Materials Management: Corporate Roundtable."

During the discussion, Covanta's Gilman noted the importance of engaging communities when companies are looking to locate waste-to-energy projects. Covanta "works with companies and communities to find sustainable solutions to their waste management challenges," according to its website.

Gilman suggested that industry and community organizations could consider forming a group to identify "best practices" on risk communication and engagement for such projects.

He touted the economic benefits of such projects, including reducing overall greenhouse gas (GHG) emissions by capturing the potent GHG methane from landfills and using that for energy.

Similarly, Maryland Secretary of the Environment Benjamin Grumbles said that waste-to-energy is a "great opportunity" and "makes a lot of sense" due to factors such as helping divert waste from landfills that have limited capacity, or from reducing GHG emissions by reusing waste streams.

But he added, "One of the fundamentally most difficult and biggest challenges on the waste to energy movement is environmental justice," and called it also one of the "most contentious" issues. He cited what he called the "six-year saga" of trying to locate a Baltimore-area project that would convert municipal and other waste types to energy. Grumbles said the project ran into opposition from citizen and environmental groups due to concerns about emissions associated with incineration, truck traffic to the facility and other issues.

Echoing Grumbles' remarks, Arkansas Department of Environmental Quality (DEQ) Director Becky Keogh said, "It is important that we not shy away from those concerns but we actually speak to them."

In addition to environmental justice concerns, waste-to-energy facilities are also

controversial among some recycling advocates, who believe waste-to-energy incineration competes with recycling and results in fewer materials being recycled.

Todd Parfitt, director of Wyoming's DEQ and also the ECOS waste committee chair, said at the meeting that economics are the major driver to an increased focus on sustainable waste management.

One example is the reuse of coal combustion residuals, also known as coal ash, in products such as cement. Supporters of the ash reuse industry said their business was effectively on hold while EPA decided whether to regulate ash under the Resource Conservation & Recovery Act's (RCRA) subtitle C hazardous waste provision or its solid waste subtitle D provision. Eventually EPA opted to issue a subtitle D RCRA rule for the waste.

Thomas Adams, executive director of the American Coal Ash Association, said that as the coal ash rule begins to be implemented, a growing area of focus will be the potential to reuse already-disposed ash. "This is an area that is just really starting to get serious attention across the country," because of EPA's rule, he said. The regulation sets technical and siting requirements for new ash disposal sites, and for all existing disposal sites.

Data from the U.S. Energy Information Administration and others show that despite some changes in the energy sector "we will have roughly the same amount of coal being burned 25 years from now as being burned today," Adams said. "So we're going to continue to have coal ash to deal with going forward," he added. "Our position . . . is that the solution to your disposal problems is don't dispose, try to recycle" the ash.

For the ash that has already been disposed -- of which Adams said some estimates say could be 1.5 billion tons in landfills and ponds -- the reuse sector is starting to assess whether those materials can reused. Some ash has been disposed in a way that makes its reuse impossible, he said, but for other types of already-disposed ash, companies are looking to see if "we can recycle these materials and reuse them."

This work is an "exciting part of the industry that's just getting off the ground," Adams said, adding that it is "going to require investigation and characterization" of the waste material.

Paul Noe, vice president for public policy with the American Forest & Paper Association, at the ECOS meeting promoted biomass as a carbon-neutral option for potential energy purposes. "We have members who have used some residuals from mills that can be processed into sources of energy," he said.

Later at the meeting, Arkansas' Keogh touted the benefits of biomass, saying, "We would be short-sighted to not look at biomass as a possible fuel source and energy future source for Arkansas."

Environmental concerns about to waste-to-energy projects linger, however, and Scott Thompson -- the executive director of Oklahoma DEQ and vice chair of ECOS' waste committee -- noted the potential high chloride content and associated major treatment costs when trying to recycle oil and gas produced water.

Still, he noted the environmental benefits from waste-to-energy projects, such as capturing what he noted were significant amounts of methane emissions that some landfills can generate.

Meanwhile, ECOS at the spring meeting in a closed-door session approved a revised version of the group's six-year old resolution on national sustainable materials management.

The updated resolution "supports the framework outlined in EPA's 'Sustainable Materials Management: The Road Ahead' [and] commends EPA for engaging with international bodies including the G7 to further refine the concept of sustainable materials management and identify opportunities for implementation."

It also "requests that EPA continue to collaborate with states to incorporate materials management as an important strategic approach for addressing environmental challenges; requests that EPA continue to work with states to integrate the use of life-cycle materials management into existing programs; and requests that EPA convene a national dialogue to accelerate sustainable materials management," according to ECOS' website. -- Anthony Lacey

Return to Top

News Headline: EPA REGION 1 CHIEF TARGETS CLEANUPS, WATER QUALITY FOR REMAINING GOALS |

Outlet Full Name: Inside EPA
News Text: EPA Region 1 Administrator Curt Spalding is outlining goals for the remainder of the Obama administration that include prioritizing waste site cleanups; improving water quality in New England; and boosting enforcement using existing Clean Air Act authority to prevent accidental chemical releases from industrial facilities.

Additionally, the region is outlining steps toward improving health and resilience of New England's iconic waters; advancing sustainability measures; ensuring drinking water safety; finalizing rulemakings over dredging in Long Island Sound and general stormwater permits for New England states; and supporting implementation of the agency's Clean Power Plan through the Regional Greenhouse Gas Initiative, according to an April 19 presentation Spalding gave for congressional staff. The presentation is available on InsideEPA.com. (Doc. ID: 190879)

The presentation describes how the region plans to achieve the agency's stated seven "themes" for where it intends to focus its efforts for the remainder of the administration, which leaves office in January.

Regional administrators are appointed by the president and do not require Senate confirmation, so the next president once he or she takes office in January would be expected to name their own administrator for Region 1, which includes Connecticut, New Hampshire, Maine, Massachusetts, Rhode Island and Vermont.

The list of EPA's themes includes: addressing climate change and improving air quality; taking action on toxics and chemical safety; water protection; making a visible difference in communities; improving state, local and tribal partnerships; sustainability goals; and embracing EPA as a "high performing organization."

On site cleanups, Region 1 intends to focus on resolving a General Electric dispute over the agency's sediment cleanup remedy for the Housatonic River and issue a final Resource Conservation & Recovery Act permit for the site, making progress on crafting a remedy for a New Bedford Harbor cleanup, and other targeted cleanup goals.

The presentation also highlights several actions intended to improve New England's iconic waters, including a final Lake Champlain total maximum daily load issued in March, implementation of a new Long Island Sound nitrogen framework, and implementation of EPA's final Clean Water Act section 208 plan for improving water quality for Cape Cod.

In coordination with Region 2 -- which covers New Jersey and New York -- states and the Army Corp of Engineers, Region 1 also intends to finalize rulemakings for the Long Island Sound that the slides say will help ensure that dredging material is managed in an environmentally sound manner.

Meanwhile, EPA headquarters is working on proposed revisions to its Clean Air Act section 112 risk management plan to help prevent accidental releases of chemical releases from industrial facilities.

But Spalding said his region is placing a "special emphasis" on enforcement of existing section 112 requirements, which require companies to craft a plan to submit to the agency that outlines how they will reduce risks from releases, conducting facility inspections, and coordinating state emergency response committees.

EPA is also working on updates to its TSCA "workplan" program that is targeting certain uses of dozens of existing chemicals for review and possible regulation, Spalding noted. The agency launched the workplan assessment program in 2012 to better regulate 'existing chemicals' that were already on the market when TSCA was enacted in 1976 and over which the agency has less authority than newer chemicals.

Spalding also highlights the region's focus on protection of drinking water resources, touting efforts to reduce lead in the public water supply and sampling efforts on perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS) -- two of the class of contaminants known as PFC, which EPA chief Gina McCarthy has also outlined as top drinking water priorities. The slides say that "recent events in Flint, Michigan and other U.S. Cities have led to important discussions about the safety of our nation's drinking water supplies."

Meanwhile, Vermont Sens. Patrick Leahy (D), Bernie Sanders (I) and Rep. Peter Welch (D) are highlighting Vermont's PFOA contamination in an appeal to leadership on the Senate environment and House energy committees, which are in charge of reconciling pending House and Senate TSCA reform bills,

"No one knows the full scope of the [PFOA] problem, as hundreds of wells and additional sites across the state are still being tested," the Vermont lawmakers say in the letter, addressed to Senate Environment & Public Works Committee Chairman James Inhofe (R-OK) and ranking member Barbara Boxer (D-CA) and House Energy & Commerce Committee Chairman Fred Upton (R-MI) and ranking member Frank Pallone (D-NJ).

The letter urges "minimal or no" preemption of state chemical authorities in a final TSCA reform bill, saying "our experience in Vermont shows us very clearly that the states must have independent authority to step in, especially where the federal government may have failed to act."

At minimum, the lawmakers urge that the reform bill does not preempt state actions until EPA takes a final action on a chemical; limits the preemption to the scope of EPA's final action; allows states to continue establishing requirements on chemicals pursuant to longstanding state laws, grandfathering existing state requirements and other provisions.

The lawmakers must reconcile significant differences between the House and Senate bills and craft a final compromise bill that will go before both chambers in order to enact a long-sought overhaul of the chemicals law. Normally, a formal conference committee would convene to negotiate the compromise language.

But for TSCA reform, lawmakers and their staff members are mounting informal talks in hopes of resolving their conflicting approaches.

Both bills would rework the 1976 chemical safety act and give EPA much broader authority to regulate existing chemicals that are already in the marketplace, eliminating hurdles the current law places on such rules that have hindered the agency's efforts to restrict some high-profile chemicals, including its failed 1991 attempt to ban asbestos.

However, the bills differ on the state preemption issue, with the differences and Boxer's strident opposition to broad preemption leading many observers to label that issue as the biggest obstacle to crafting a consensus bill. -- Bridget DiCosmo

Return to Top

News Headline: STATES FAULT EPA ON DATA, 'BACKGROUND' OZONE IN LEGAL FIGHT OVER NAAQS |

Outlet Full Name: Inside EPA
News Text: A coalition of 10 states in a new legal filing faults EPA's decision to tighten its ozone national ambient air quality standard (NAAQS) from 75 parts per billion (ppb) down to 70 ppb, saying the rule is based on a "paucity" of scientific data and ignores natural "background" ozone levels that could make the standard impossible to meet.

The states' April 22 opening brief follows filings that day from several industry groups who also criticize the decision to tighten the standard, and from advocates who say the ozone limit should be stricter. The brief is available on InsideEPA.com. (Doc. ID: 190791)

Challenges to the NAAQS have been consolidated in the U.S. Court of Appeals for the District of Columbia Circuit case Murray Energy Corporation, et al. v. EPA, et al. The D.C. Circuit in prior suits over NAAQS has often deferred to the agency's scientific expertize for the levels at which it chooses to set the standards.

Critics of the Oct. 1 ozone rule, however, are citing scientific issues in their push-back on the stricter standard. The 10 states in their new filing echo attacks that the new standard ignores the role of naturally occurring background ozone, which is impossible to regulate. High background ozone will make the tougher limit impossible to meet in some areas, and this renders the rule unlawful, the states say.

State air regulators cannot address background ozone by limiting emissions from local sources, and hence face being classified in "nonattainment" with the new standard. Areas in nonattainment must impose tougher pollution controls on industry and, if states do not submit air quality implementation plans adequate to meet the NAAQS, they face the loss of federal highway funding.

"Numerous commenters presented EPA with studies demonstrating that the peak effects of sources that the States cannot control, on peak days, will make compliance with the new standard unduly onerous, and sometimes impossible. Indeed, EPA's own modeling illustrates the same problem. Yet, the Agency did not take account of this critical issue, instead choosing to focus on 'average' and 'seasonal mean' impacts of uncontrollable sources," the states say. Ozone NAAQS compliance is based on peak levels of pollution, not seasonal averages, they say.

"The peak effects of uncontrollable sources on peak days will lead the Agency to impose burdensome pollution control measures in areas where such measures have no potential to improve air quality or serve public health. This is the paramount problem with regard to the critical issue of background ozone, and EPA's failure to address the problem requires that the Rule be vacated," the states add.

The states contend that EPA's failure to address "a significant aspect of a problem," -- peak background ozone -- runs counter to D.C. Circuit precedent and is unlawful. They say EPA violated the Clean Air Act's requirement that EPA set NAAQS that can be "achieved and maintained."

Further, relying on "enforcement-stage relief" to help states faced with NAAQS attainment problems is not enough, the states say. EPA is touting a streamlined "exceptional events" rule, which it will issue in final form this summer, to enable states to more easily claim regulatory exemptions for high air pollution stemming from unusual events such as wildfires and dust storms.

The agency has also said remote "rural transport areas" areas can take advantage of a similar waiver, and areas may be able to petition EPA to exclude from NAAQS compliance poor air quality stemming from abroad. However, critics say this is not enough for areas to avoid nonattainment status.

"Provisions addressing 'exceptional events' are ill-suited to addressing routine exceedances that will inevitably occur due to uncontrollable background ozone. Likewise, the Act's limited measures for helping areas affected by rural transport and international pollution are intended for infrequent exceedances, as demonstrated by the assumption that these areas should remain classified as nonattainment and subject to the corresponding burdens," the states say.

The states further claim that, contrary to the agency's claims, EPA based its decision on very little new evidence of ozone's adverse health effects. The cite EPA's "excessive reliance on a single clinical study with significant limitations," that found decreased lung function in exercising adults at 72 ppb of ozone. -- Stuart Parker

Return to Top

News Headline: DESPITE CONCERNS, ADVOCATES DOUBT IMPACT OF SENATE BIOMASS PLAN ON EPA |

Outlet Full Name: Inside EPA
News Text: Environmentalists and their supporters say privately it is unclear whether the recently approved Senate legislation endorsing biomass as a carbon-neutral fuel will hinder EPA's ongoing work in determining the fuels' lifecycle greenhouse gas emissions despite their public statements that the legislation "would

undermine" the agency's efforts.

One reason for the uncertainty, advocates say, is that the legislation includes a flexibility provision requiring agencies to ensure that any action they take on biomass is "consistent with their mission." They also note that the legislation also includes the caveat that biomass cannot be carbon neutral or renewable if it causes conversion of forests to "non-forest use."

One environmentalist says while the Senate language is "pushy" and ignores the physical reality that it can take 100 years for trees to grow back and re-sequester carbon dioxide emitted from power plant combustion, it is "difficult to see" how it will entirely force EPA's hand.

"The genius thing about this language is . . . it isn't so proscriptive . . . as to take the ball away from EPA" entirely, the environmentalist says.

The Senate April 20 voted overwhelmingly, 85-12, to approve the first major energy legislation in years, though the measure still needs to be aligned with a House version. The bill includes an amendment -- offered by Sens. Susan Collins (R-ME), Amy Klobuchar (D-MN) and Angus King (I-ME) -- directing EPA and other agencies to find biomass to be carbon neutral "consistent with their mission" and does not cause conversion of forests.

It also includes a separate amendment by Sen. Joe Manchin (D-WV) that says bioenergy co-fired with coal and carbon capture and sequestration is "net carbon negative."

The Collins amendment seeks to short-circuit a long-running debate over whether bioenergy is carbon neutral. Industry groups and others say it is because forest regrowth sequesters carbon from combustion. But environmentalists and other critics say combustion can emit large volumes of carbon that takes decades to be sequestered, long after they have caused adverse effects.

A broad coalition of environmental groups warned in the days leading up to a Senate energy bill floor vote that an amendment declaring biomass to be carbon neutral "would undermine" EPA's ongoing struggle to develop a methodology for estimating emissions.

The coalition of 75 environmental groups warned in an April 19 letter to Sens. Lisa Murkowski (R-AK) and Maria Cantwell (D-WA) -- the chair and ranking member, respectively, of the energy committee -- that the amendment from Collins and Klobuchar "sets a dangerous precedent for all climate science and could potentially lead to accelerated forest clearing for biomass fuel," while the Manchin language is "similarly problematic." The letter is available on InsideEPA.com. (Doc. ID: 190753)

However, many prominent groups that engage in biomass were missing from the letter, including the Clean Air Task Force and the Natural Resources Defense Council.

The critics sought to soften the language so that the amendment could not be implemented until EPA completed its scientific assessment. They also urged friendly lawmakers to offer an alternative amendment and raise the point on the floor, noting that it is imperative to avoid cutting and burning forests for fuel to avoid the worst consequences of climate change, and that providing unqualified support for carbon-neutral biomass runs counter to science and undermines EPA's authority. But their efforts were unsuccessful.

Sen. Sheldon Whitehouse (D-RI), a supporter of aggressive climate rules, said that he voted for the final bill despite concerns with the biomass language. In a statement issued after the Senate approved the bill, Whitehouse said he hopes lawmakers will revisit the issue soon. "This bill takes a step in the wrong direction by hamstringing the experts at [EPA] and other federal agencies charged with determining whether biomass fuels are carbon neutral. The question of carbon neutrality should be based on science and not dictated by Congress," he said.

The environmentalist is disappointed that Democratic senators and environmentalists did not put up more of a fight over the biomass language but says part of the reason may be that they are not optimistic a final bill will emerge from conference.

The source says the lawmakers were unwilling to push back on the language, which emerged as a compromise in February between the authors and the White House, which had threatened to veto an earlier version.

But in the end, the environmentalist says the language does not necessarily impact EPA's work in identifying climate-friendly biomass that can be used to comply with its power plant greenhouse gas rule, known as the existing source performance standards (ESPS), nor the work of its Science Advisory Board (SAB) in providing the agency advice on how to assess biomass lifecycle emissions.

The environmentalist says if the measure becomes law it is unlikely to come up until EPA moves to make a biomass carbon determination that the industry does not like. At that point, "I would like to see them try" to stop an EPA policy by citing the amendment.

Yet the source concedes that the language is not ideal, and that "what everyone is hoping is the bill isn't going to survive the conference process."

The source adds it is difficult to see what EPA will do next on the biomass, whose path forward has long been muddled. The agency's SAB most recently rejected a panel's final report on the agency's revised draft biomass accounting framework and is requiring the panel to reconvene and redo its work -- on an unknown timeframe.

And EPA sought comment on a rule related to its ESPS -- which is stayed pending judicial review -- where it is expected to make additional decisions on biomass for ESPS compliance, though it is not known when the agency will move on the matter given the court hold.

EPA most recently held an April 7 biomass ESPS workshop. Following that meeting, a spokeswoman says the agency "will continue its technical research to assess the implications of biomass use for energy at stationary sources. Also, as in the case of other scientific and policy processes, EPA will continue to engage with stakeholders, policymakers, and the research community to exchange information and discuss examples of existing and potential carbon beneficial biomass programs and activities."

While environmentalists are disappointed with the Senate action, industry groups that have long pressed EPA to define biomass as GHG neutral are applauding the amendment.

The National Alliance of Forest Owners in an April 20 statement commended the "clear and simple policy on biomass," which "confirms the science on the carbon benefits of biomass and will encourage private investment." Similarly, the American Forest & Paper Association says the bill "sends a clear message to policymakers that the full benefits of using biomass for energy generation should be recognized in federal policies with a consistent approach across all federal agencies. Emission from bioenergy should be considered carbon neutral as long as forest growth exceeds harvest."

And the Biomass Power Association says the amendment "accurately reflects the carbon beneficial impacts of power from forest biomass" and that if adopted in the final bill it "would provided the much-needed certainty that will help our industry grow."

Additionally, the biomass pellet industry is indicating that it sees large opportunities to expand pellet energy to North America for ESPS compliance. Right now the pellets are created here and largely shipped to European countries, which classify biomass as carbon neutral but include biomass as part of land-use climate policies -- policies that are exempt from GHG rules when the biomass comes from the United States.

"If this language has the desired effect, it would basically unshackle that industry" here, the environmentalist says.

The environmentalist raises concern that such efforts could further increase emissions from biomass. Citing EPA's recently released GHG inventory, the source notes that sequestration from forestry is slowing.

The EPA inventory shows that between 1990 and 2014 total sequestration from forestry is slowly increasing but was on a much faster pace between 2005 and 2010, and has not quite reached 2010 levels again.

"Finding ways to enhance forest and soil carbon sequestration is the only tool at our disposal to take emissions out of the atmosphere. Meanwhile, forest carbon sequestration at the national level is stalling," the environmentalist says.

Acknowledging this, White House senior advisor Brian Deese in April 15 remarks, "The Paris Agreement and Beyond," said the United States must "up [its] game" in climate policy by taking "a more comprehensive approach to our land sector. With each ton of emissions we reduce, the remaining reductions get harder and costlier to achieve. So our forests, wetlands, and grasslands' role as 'carbon sinks' should become an even more important part of our strategy to get to deeper decarbonization and stay below 2 degrees."

He said the country will need "tools to help our carbon sinks remove more emissions from the atmosphere," including an improved ability to measure such removals.

The environmentalist says those comments suggest the White House is "at least a member of the reality-based community." -- Dawn Reeves

Return to Top

News Headline: INDUSTRY COALITION, ADVOCATES WAGE COMPETING ATTACKS ON OZONE NAAQS |

Outlet Full Name: Inside EPA
News Text: A coalition of major industrial sectors and a separate group of public health and environmental organizations are waging competing legal attacks on EPA's decision to tighten its ozone ambient air limit, with industry claiming the rule is flawed for not weighing natural "background" ozone while advocates say the limit is unlawfully weak.

The arguments are detailed in April 22 opening briefs that the petitioners filed with the U.S. Court of Appeals for the District of Columbia Circuit in Murray Energy Corporation v. EPA, which consolidates suits over the Oct. 1 rule. EPA's regulation tightened the prior 2008 ozone national ambient air quality standard (NAAQS) of 75 parts per billion (ppb) down to 70 ppb. Industry groups, GOP lawmakers and some states say the agency lacked scientific justification to tighten the limit, while advocates say it should have been made even stricter. The briefs are available on InsideEPA.com. (Doc. ID: 190767)

EPA's Clean Air Scientific Advisory Committee (CASAC) endorsed tightening the limit to within the range of 60 ppb-70 ppb in order to protect public health, and

environmental advocates backed a 60 ppb standard.

Opponents of a stricter standard, however, argue that it ignores the role of naturally-occurring background ozone levels that could make it impossible for some areas to ever attain the NAAQS. This in turn would trigger an air law mandate for those areas to impose potentially expensive controls on industrial sources of ozone-forming pollutants. EPA's critics say that this nonattainment status drives businesses away and hurts local economies.

However, EPA by law cannot consider costs in setting a NAAQS and must do solely based on scientific data on a criteria pollutant's impacts on human health and welfare. Groups have routinely challenged EPA's decision on where it sets NAAQS for ozone and the five other criteria pollutants, but the D.C. Circuit has largely deferred to the agency's scientific expertize in determining what level of NAAQS satisfies Clean Air Act requirements.

The coalition of Murray Energy, the National Association of Manufacturers, American Petroleum Institute and others argue in their April 22 opening brief that the air law mandated EPA to consider background pollution from natural and foreign sources when setting the NAAQS, and that its failure to do so makes the rule unlawful.

The Clean Air Act "requires that NAAQS be achievable by regulation of U.S. sources" through state implementation plans (SIPs), which are NAAQS compliance plans crafted by states, the groups say.

"Consequently, in setting NAAQS, EPA must consider whether those standards can be achieved through such regulation and may not set standards that cannot be achieved. In lowering the ozone NAAQS level, EPA did not take appropriate account of evidence that naturally-occurring or internationally-transported background ozone that cannot be controlled under the Act can, in some circumstances, prevent achievement of those NAAQS, particularly given that the Act does not require man-made U.S. emissions to be totally eliminated (which is impossible in any event)."

Although EPA claims it is prohibited from considering background pollution levels when setting NAAQS, the groups say, "that claim is unsupported by the Act, the case law, or common sense and is inconsistent with EPA's prior position. To the contrary, the Act requires such consideration."

EPA's recommendation that states rely on regulatory exclusions offered under the agency's "exceptional events," "rural transport areas" and international emissions exemption programs is insufficient, and cannot guarantee NAAQS compliance, the industry coalition says.

The exceptional events policy offers states the option of excluding from regulatory

compliance determinations air quality data gathered during unusual events such as dust storms or wildfires.

EPA is working on an update to the exceptional events policy due to be finalized this summer, but critics say it still does not go far enough to streamline the policy to make it workable. The rural transport area policy allows similar exemptions for rural areas that are not adjacent to urban areas, where the rural area lacks pollution sources to regulate. And states can also petition EPA to exclude from NAAQS compliance air pollution from foreign sources.

Industry petitioners also argue that EPA has not taken into account "contextual factors" raised by Justice Stephen Breyer in his concurring opinion in Whitman v. American Trucking Associations, the 2001 Supreme Court case that is widely interpreted to prohibit EPA from considering implementation costs when setting NAAQS.

Such factors include "the public's ordinary tolerance for a particular health risk," "comparative health risks," and "the acceptability of small risks to health." EPA should consider adverse economic, social and energy impacts of tougher NAAQS, the petitioners argue. The agency did not account for these factors in its decision to tighten the ozone limit, which also makes the decision unlawful, they say.

The industry petitioners claim that EPA has failed to provide a "reasoned explanation" for its tightening of the NAAQS. "Here, no new study since EPA last revised the ozone NAAQS in 2008 changed the fundamental scientific understanding of ozone effects or the exposure-response relationships," they say. This contradicts EPA's view that there is ample new evidence to back tightening the standard.

Public health and environmental groups in their April 22 opening brief urge the court to remand the primary and secondary ozone standards to EPA. Primary standards protect public health, while secondary standards protect the environment, and EPA set both at 70ppb. Advocates also want the court to vacate "grandfathering" provisions that exclude complete or near-complete permit applications from having to demonstrate compliance with the new standard.

"In light of EPA's repeated delays in updating the ozone standards and the significant public health and welfare impacts at stake, the Court should also set a deadline for EPA to complete remand proceedings," says the filing by the Appalachian Mountain Club, National Parks Conservation Association, Physicians for Social Responsibility, Sierra Club and West Harlem Environmental Action, Inc.

Their brief details significant concerns with primary health-based NAAQS, saying it is "underprotective" of human health and therefore falls short of the Clean Air Act mandate that the criteria pollutant standard protect human health with an adequate margin of safety. "Because EPA set the health standard with a form and level that combine to allow ozone pollution levels that EPA acknowledges cause adverse

effects in healthy young adults, the standard unlawfully and arbitrarily fails to protect the health of both these and more sensitive populations, like asthmatic children, from acknowledged adverse effects," they say.

The groups argue that EPA's own data showed that 8-hour exposures to 0.072 parts per million (ppm) ozone -- alternatively expressed at 72 ppb -- could cause adverse effects, yet the agency's "form" for measuring the standard could allow "multiple days every year with ozone concentrations at or above that 0.072 ppm level."

They say EPA violated the air law by not addressing CASAC's findings that ozone can cause harm to some sensitive populations at levels down to 0.0070 ppm, or 70 ppb, yet the form could allow exposures above that level.

Advocates also fault EPA's decision not to set a distinct secondary ozone standard designed to protect the environment, faulting the agency's defense that the primary standard would also provide adequate welfare protection. Environmentalists have long sought a stand-alone secondary ozone NAAQS.

"EPA also violated the Act by failing to 'specify a level' of air quality requisite to protect against widespread ozone damage to leaves, despite specific recommendations" from CASAC and the U.S. National Park Service for such a level, the groups argue.

The advocacy groups attack the agency for the grandfathering provisions in the rule that exclude some air permit applicants from showing their projects will not violate the 2015 NAAQS, which the groups say has "unlawfully waived permitting requirements designed to prevent violations of the new standards."

In the final NAAQS rule, EPA says that two types of Clean Air Act prevention of significant deterioration permits will be eligible for grandfathering: "(1) applications for which the reviewing authority has formally determined that the application is complete on or before the signature date of the revised [ozone] NAAQS, or (2) applications for which the reviewing authority has first published a notice of a draft permit or preliminary determination before the effective date of the revised [ozone] NAAQS."

In its response to comments in the rule, EPA rejected calls from industry groups who said in their comments that the agency should expand the range of situations that would qualify projects for grandfathered permits.

The agency further rebuffed environmental groups who had objected to any grandfathering provision and alleged that EPA lacks the legal authority to issue such regulatory waivers. EPA defended its legal right to grandfather some permits, but also rejected various ideas intended to increase the number of permits grandfathered.

But the advocates in their opening brief fault the grandfathering provisions, saying,

"EPA's grandfathering exemption flouts the plain text of the Act. Contrary to EPA's claim, there is no ambiguity to the Act's mandate that construction of any new or modified major source in certain areas can proceed only with a showing that the source will not cause or contribute to violations of ozone standards."

Oral argument in the case has not yet been scheduled. -- Stuart Parker

Return to Top

News Headline: EPA FACES DOUBTS OVER POWER TO ADDRESS GHG LIMITS FOR 'IN-USE' AIRCRAFT |

Outlet Full Name: Inside EPA
News Text: Amid global talks on limiting greenhouse gas (GHG) emissions from in-use aircraft, EPA is facing major questions over whether or how it may be able to address the issue, with environmentalists renewing calls for the agency to craft Clean Air Act controls while industry is backing a forthcoming international market-based measure as the best approach.

Environmentalists have long urged EPA to issue separate domestic rule for in-use aircraft, as well as new and in-production models, arguing the agency has a statutory obligation under the Clean Air Act to do so or to specify reasons why it chooses not to regulate existing sources in the sector.

Industry groups, however, say they favor whatever market-based measure (MBM) governing emissions from in-use aircraft emerges from negotiations under the International Civil Aviation Organization (ICAO), a system that EPA -- or any other federal agency -- currently lacks authority to implement.

As a result, industry groups suggest Congress will have to legislate to address the issue -- though such an outcome appears unlikely anytime soon.

One industry source says the administration is currently assessing options for how to address the issue.

Working under ICAO, the United States and 22 other countries reached agreement Feb. 8 on first-time global limits for aircraft GHGs covering new and in-production models -- dubbed the carbon dioxide standard -- which EPA has long indicated it plans to implement via a Clean Air Act rule (Inside EPA, Feb. 12).

Countries are also working this year to also craft an MBM under ICAO for in-use aircraft, under which airlines would cap their GHG emissions at 2020 levels and beginning in 2021 reduce or offset any emissions from international flights above that limit.

The MBM is seen as a complementary policy to the proposed CO2 standard. Supporters say that because emissions from aircraft are not governed by the recently signed Paris Agreement, the upcoming ICAO agreement is an important next step in global efforts to address GHGs.

"A cap on aviation at 2020 levels could achieve 8 billion tons of emissions reductions in the next two decades -- reductions that would otherwise not be obtained under the Paris Agreement," the Environmental Defense Fund said in an April 21 statement.

But other environmental groups have widely criticized the proposed CO2 standard as too weak, charging it would achieve little to no reductions beyond a business-as-usual scenario.

As a result, advocates are ramping up calls for EPA -- which will be tasked with implementing the ICAO standard in the United States once it is approved, likely this summer -- to promulgate a stricter domestic standard. And EPA Administrator Gina McCarthy in recent comments hinted the agency could be open to crafting something more stringent if global talks to craft the MBM fall short or do not produce a "sufficient" product.

Administration officials have shifted focus to the MBM negotiations, hoping for agreement on a strong measure by the end of this year, though recent reports of tensions among nations over how to distribute offsetting responsibilities could threaten the prospects of reaching a deal.

Critics say the proposed MBM is neither sufficient enough to address emissions from in-use aircraft nor compliant with the agency's Clean Air Act duty to regulate existing aircraft, which they say derives from section 231's broad language requiring the agency to study emissions from aircraft engines and to propose standards for "any class or classes" of engines that endanger the public health or welfare.

If EPA's intent "is to rectify true errors in the standards" by "looking to offsets . . . that is not what the Clean Air Act allows," Vera Pardee, senior counsel at the Center for Biological Diversity (CBD), told Inside EPA, noting that out-of-sector offsets are not allowable under section 231. "You can't mix apples and oranges."

Pardee also says such a strategy "ignores the low-hanging fruit" available, largely through technological innovation, to cut emissions outright, as opposed to offsetting them.

"There is a limit of what you can do, but we are not even close to that limit," she said, adding that considering offsets as the MBM would allow is "just irresponsible. It doesn't comply with the Clean Air Act . . . It's another fig leaf."

CBD and other environmental groups are attempting to increase the pace of

administration efforts on aircraft, filing a deadline suit recently asking the court to require EPA to more quickly promulgate a regulation.

In an April 12 complaint, Center for Biological Diversity (CBD) and Friends of the Earth v. EPA, et al., filed with the U.S. District Court for the District of Columbia, the groups charge the agency has unreasonably delayed controlling emissions from the sector for more than a decade, requesting that EPA finalize its proposed endangerment finding -- issued last summer -- and propose a related rulemaking 30 days after resolution of the lawsuit. Industry stakeholders, by contrast, want to prevent EPA from regulating under the air act and are instead urging officials to stick with the ICAO process, both for new and in-production aircraft, as well as in-use aircraft. The complaint is available on InsideEPA.com. (Doc. ID: 190805)

This sentiment echoes prior comments from industry calling for consistent global regulations due to the international nature of the aircraft industry.

"The United States will be in a position to continue to support that process," said Nancy Young, vice president for environmental affairs for Airlines for America, of the ICAO negotiations to craft the MBM. She notes that industry supports the MBM and is "working constructively" with the Obama administration and with other countries to broker an agreement this year.

Young outlined several characteristics industry stakeholders would like to see as part of the MBM, which she said groups highlighted during ICAO-hosted Global Aviation Dialogues (GLADs) held March 20 through April 8 in several regions across the globe.

Airlines for America "very strongly support[s]" the MBM " being a carbon offset system," Young told Inside EPA, noting that many years of study led the ICAO negotiators to decide two years ago to narrow their focus to carbon offsets instead of a carbon tax or a carbon trading system.

Industry groups also support and are helping develop "agreed criteria for the emissions units to be shown to have environmental integrity," she added.

Young argues that while EPA is the enforcement authority tasked with implementing the global CO2 standard, the agency is not the lead on the MBM, which "falls under a completely different process and authority."

But she says there is currently no domestic authority for implementing the MBM. It "does not have a predicate in US law for adoption," Young says, noting that the Obama administration is currently working out ways to implement it in domestic law.

She adds that Airlines for America, in particular, believes the administration should "implement strong legislation to support [the MBM] once it is adopted," though such

an approach could face hurdles in a current Republican-controlled Congress that is largely hostile to GHG controls.

In terms of the CO2 standard for new and in-production aircraft, industry stakeholders support the outcome of the ICAO negotiations and expect the standard to be approved by the ICAO council this summer, noting -- in contrast to environmentalists' criticism -- that the standard is sufficiently stringent.

The CO2 standard is "rigorous" and "at the far edge of technological feasibility," Young said. She notes that U.S. negotiators were among the ones pushing for the strictest standard during the talks and that a number of other countries felt the outcome "went further than what was appropriate" in terms of stringency.

Airlines for America, Young says, believes strongly that the United States should adopt the ICAO standard exactly, particularly given the Obama administration's significant role in the process over five years of negotiations.

"It would be very questionable for the United States, after it helped develop the standards, advocated the particular levels and after our president praised the outcome, for the United States to deviate from the international standard," she told Inside EPA.

Even more, Young says that were EPA to consider promulgating a standard stricter than ICAO's CO2 standard, the United States would have to formally "file a difference" as required by the Chicago Convention, ICAO's founding treaty.

"Any State which . . . deems it necessary to adopt regulations or practices differing in any particular respect from those established by an international standard, shall give immediate notification to the International Civil Aviation Organization of the differences between its own practice and that established by the international standard," according to the Chicago Convention. The treaty notes that ICAO would then notify all other countries accordingly. -- Abby Smith

Return to Top

News Headline: DOJ'S CRUDEN TOUTS 'PROGRESS' IN VOLKSWAGEN EMISSIONS ENFORCEMENT CASE |

Outlet Full Name: Inside EPA
News Text: The Department of Justice's (DOJ) top environmental attorney John Cruden says a newly announced agreement in principle with Volkswagen (VW) for the company to buy back about 500,000 diesel vehicles made with illegal "defeat devices" that allow emissions increases is "progress" in EPA's Clean Air Act enforcement action against the company, but major issues still remain.

Cruden, assistant attorney general in DOJ's environment division, discussed the VW agreement briefly during April 22 remarks at a DOJ Earth Day event in Washington, D.C.

The agreement was announced during an April 21 hearing at the U.S. District Court for the Northern District of California. Cruden did not comment on how his office would continue with other aspects of the case, including criminal penalties for the automaker and compensation to vehicle owners.

"This agreement in principle addresses one important aspect of the Department's pending case against VW, namely what to do about the 2 liter diesel cars on the road and the environmental consequences resulting from their excess emissions. The Department's other investigations into VW's conduct remain active and ongoing," a DOJ spokesman told Inside EPA after the event.

A transcript of the district court hearing is not yet available, but according to a New York Times report the agreement commits VW to buying back cars equipped with the devices that circumvent Clean Air Act nitrogen oxide emissions limits, at an estimated cost of $7 billion.

The agreement as described would not touch on reported negotiations between VW and the administration to establish a national remediation fund, as well as a separate one for California. The national fund would be administered by EPA and used to promote clean transportation throughout the country, while the other would be run by California officials to promote zero-emission vehicles in the state.

In addition to the VW settlement talks, Cruden touted two newly proposed consent decrees: one with ORB Exploration to remediate oil spills in the Gulf of Mexico, and another for a contaminated mine site known as the Copper Basin Mining District in Tennessee, which includes "$40 million or so" in monitoring, cleanup, public notifications and repayments to EPA and the state for work already done.

Return to Top

News Headline: ALGONQUIN PIPELINE |

Outlet Full Name: Milford Daily News, The
News Text: The proposed Kinder Morgan natural gas pipeline along the state's northern border died as an idea last week, but the Spectra pipeline slated to run through the Milford area shows no signs of succumbing to the same fate.

In fact, activity around Spectra's Algonquin Gas pipeline is starting to pick up.

Town halls in all the communities affected (Medway, Bellingham, Franklin, Millis, Milford and Upton) were slapped with legal notices late last week detailing some

upcoming hearings. The public hearings, held by the Massachusetts Energy Facility Siting Board, provide an opportunity for concerned residents, property abutters and local officials to make a case for or against the pipeline. The hearings are one piece in a complex puzzle of hearings and document filings that Spectra must go through to get state and federal approval.

The Algonquin Gas Pipeline proposal is a 55-mile stretch running from the Worcester area to the South Shore. It's billed as a way to increase the amount of natural gas flowing to power plants in the name of cheaper electricity. Natural gas, in general, is billed as cleaner and more environmentally friendly than other fossil fuels. But there are many state officials, including the attorney general and senate president, that are wary of an increased investment in natural gas infrastructure in light of a push to cut down on carbon emissions. Both the state and country have set tight emissions-reduction goals for the next several decades; every step toward fossil fuel reliance is a step away from meeting those goals.

A local group of climate activists would like the see the Spectra proposal go the way of Kinder Morgan's.

"(The Kinder Morgan line) is gone for now, and that's great, but that means we have to work harder here. Spectra is going to double down," said Carolyn Barthel, leader of the anti-pipeline group Mass 350 Greater Franklin Node.

A spokesman for Spectra confirmed that.

"We're going to continue to pursue the right sized project," said Arthur Diestel.

The pipeline, he said, would be built mostly along existing rights of way. It would only serve to increase the area's electric power. He sought to distance the Spectra project from the Kinder Morgan proposal. Some feared that proposal was part of a wider effort to ship fracked gas from the shale fields in Pennsylvania abroad.

"Access Northeast is the only project in the region with a sole focus on electric reliability," he said.

Kinder Morgan withdrew its application for a 188-mile, $3.3 billion pipeline proposal last Wednesday, citing unfavorable market conditions. It came after substantial pushback from state leaders and local activists, according to the Associated Press.

The Greater Franklin Node has adopted a "death by 1,000 cuts" strategy in fighting the pipeline.

The strategy extends to the scheduled hearings in May.

"It's our opportunity to tell the state directly that we don't want these pipelines," said

Barthel.

The hearings are Monday, May 2 at 7 p.m. the Grafton High School Auditorium and on Monday, May 9 at 7 p.m. in the Walpole High School Auditorium.

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Return to Top

News Headline: EPA paying $1 million in response costs after mine spill |

Outlet Full Name: Associated Press
News Text: DENVER (AP) - The Environmental Protection Agency said Thursday it is reimbursing states, tribes and local governments about $1 million for their costs after the agency accidentally triggered a massive wastewater spill from a Colorado mine.

The EPA said the money is being paid to Colorado, New Mexico and Utah state governments, the Navajo Nation and Southern Ute Indian Tribe, and Colorado counties and towns.

Most of the money is for the cost of responding to the spill from the inactive Gold King Mine in southwestern Colorado last August. The agency said it is considering requests for another $570,000 in expenses from the immediate aftermath.

The EPA is also considering whether to designate the area around the Gold King Mine as a Superfund site, which would free up millions of dollars in federal aid for a broad cleanup.

An EPA-led crew inadvertently released 3 million gallons of water containing arsenic, cadmium, copper, lead, mercury and other dangerous pollutants while doing preliminary cleanup work.

Water utilities briefly shut down their intake valves and farmers stopped drawing from the rivers. The EPA says the water quality quickly returned to pre-spill levels.

The spill reached rivers that flow through the three states. The rivers cross the Southern Ute reservation in Colorado and the Navajo Nation in New Mexico.

The agency provided The Associated Press with a list of reimbursements after officials in La Plata County, Colorado, complained the EPA turned down their request for up to $2.4 million over 10 years for future expenses, including monitoring water quality.

The EPA said it doesn't cover future expenses under the type of agreement the county proposed, but it is providing $2 million to the three states and two tribes for long-term water monitoring. County officials said that differs from what the EPA told them earlier, the Durango Herald reported (http://tinyurl.com/zusgu2y).

The EPA provided a breakdown of the reimbursements it is making for costs the states, tribes and local governments have already incurred:

- $334,000 to the state of New Mexico. The EPA said it is working with the state on an extension of the deadline to request more money.

- $221,000 to Silverton and San Juan County, both in Colorado. The Gold King Mine is near Silverton in the county.

- $208,000 to La Plata County, Colorado.

- $157,000 to the Navajo Nation in New Mexico. In addition, the EPA itself spent $1.1 million on the Navajo Nation responding to the spill, the agency said.

- $116,000 to the Southern Ute Indian Tribe in Colorado.

- $2,400 to Durango, Colorado, in La Plata County.

The EPA said it is still considering three requests for reimbursement for expenses already incurred:

- $304,000 from the state of Colorado.

- $140,000 from La Plata County, Colorado.

- $128,000 from the state of Utah.

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Return to Top

News Headline: OMB DEFERS TO EPA IN LENGTHY DISPUTE OVER ARMY'S PERCHLORATE CLEANUP |

Outlet Full Name: Inside EPA
News Text: The White House Office of Management & Budget (OMB) has deferred to EPA in a high-level dispute between EPA and the Army over what cleanup

standards to apply to perchlorate in groundwater at a Texas site and the extent of EPA's authority to assess stipulated penalties against the military for insufficient documents under an agreement governing the site's cleanup.

EPA and the Army had been locked in a battle over the perchlorate cleanup level and stipulated penalties for nearly five years at the Longhorn Army Ammunition Plant, located near Caddo Lake in Kamack, TX. The dispute was formally initiated in October 2011, and fell under the dispute-resolution process in Longhorn's Federal Facility Agreement (FFA) among EPA, the state of Texas and the Army. The FFA governs the cleanup, following the Comprehensive Environmental Response, Compensation & Liability Act (CERCLA).

While the dispute has been resolved through OMB's conclusion that it would not revisit EPA Administrator Gina McCarthy's final decision to affirm lower-level EPA determinations on the matter, OMB has also called for the two agencies to further discuss federal groundwater cleanup policy in order "to resolve miscommunications that led to Army's concerns," according to an undated letter from OMB officials to Army Assistant Secretary for Installations, Energy and Environment Katherine Hammack. Relevant documents are available on InsideEPA.com. (Doc. ID: 190757)

In the letter, obtained by Inside EPA, OMB officials go on to say they are "encouraged by the ongoing communications between the agencies on this issue and will be convening a meeting at OMB in the next couple of months to ensure that agencies understand how the policy will be implemented and enforced." An EPA spokeswoman says that the agency "is aware of the OMB letter and will be meeting with DOD and OMB in the coming months to fulfill this request."

A key aspect of the dispute at Longhorn was what cleanup level to apply for perchlorate in groundwater. Army officials had long urged the agency to use the state screening level of 22 parts per billion (ppb), which the state set when it implemented EPA's 2006 health advisory level for perchlorate of 24.5 ppb. But in 2009, EPA strengthened its advisory level for the chemical to 15 ppb and had urged Army officials to use that level in the Longhorn cleanup.

In 2013, EPA then began urging the Army to use Texas's new protective concentration limits (PCLs), developed as groundwater cleanup levels, for the Longhorn site, where groundwater has been designated as a potential drinking water source. The state updated its PCLs June 29, 2012, setting the perchlorate level for residential cleanups at 17 ppb.

The Army, however, resisted EPA's approach, charging that the Texas 22 ppb level trumps EPA's newer health advisory number as an applicable or relevant and appropriate requirement (ARAR), the CERCLA requirement for choosing among various state and federal standards when selecting cleanup levels. Further, Texas regulators have been clear that if a cleanup is begun under the old standard, then it is completed under the old standard, a source familiar with previous discussions

between EPA and the Army had said.

Under CERCLA, ARARs are one of two threshold requirements that all cleanups must meet, though EPA's policy generally leaves regulators with significant discretion to identify ARARs on a site-specific basis.

An informed source previously said that typically when ARARs are considered, there is a hierarchy as to which types of regulations are considered for application at a site. Federally promulgated standards such as maximum contaminant levels (MCLs) are considered highest priority, followed by state promulgated standards, federal health advisory levels and state health advisories, the source said.

But in this case, there was significant uncertainty about what ARAR to select because there is no federal MCL.

The Army had been concerned that a decision at this site could set a precedent for perchlorate cleanups elsewhere, possibly requiring it to re-open other cleanups in Texas, the source familiar with the discussions said.

While EPA maintains that McCarthy's Oct. 31, 2014, decision settled the matter -- as CERCLA and the FFA both prescribe that the administrator is the final decisionmaker for such disputes -- the Army nonetheless refused to accept her decision and appealed to OMB in November 2014 to intervene and settle the matter.

In her Oct. 31, 2014, letter to the Army, McCarthy noted the significance of the issues at play in the dispute.

"The dispute involves issues of fundamental importance to the federal government's cleanup program, including the restoration of potential sources of drinking water to beneficial use, land-use controls to ensure the long-term effectiveness of the remedy and the EPA's authority to assess stipulated penalties, as well as federal agencies' obligation to comply with the law in the same manner and to the same extent as private parties to protect human health and the environment," she wrote.

McCarthy's final decision affirmed an EPA Region 6 determination that Texas' PCL of 17 ppb for residential groundwater cleanup should be followed, and she upheld a stipulated penalty of $1.19 million against the Army for submitting to EPA substantively deficient documents under the FFA.

The Army had argued that stipulated penalties only extended to missed deadlines, and that it could not be fined for submitting insufficient documents. While the penalty amount is significant, McCarthy wrote that "the Army's substantively deficient submittals directly affect a potential source of drinking water and fail to adequately protect against threats at the four operable units" at the site.

In her Nov. 25, 2014, response, Hammack argued that McCarthy's decision

contained "numerous inaccurate statements of fact, is contrary to law, and is contrary to well established Federal policy," and requested a decision from OMB.

In its undated letter addressing the issue, OMB says "that the cleanup goals for perchlorate at the public health advisory levels are projected to be achieved in advance of the MCL-driven cleanup goals for trichloroethylene (TCE) at the site due to the nature of those two constituents and [that it expects] that the draft Record of Decision can be modified accordingly.

"Based on these developments, OMB is not revisiting the Administrator's determination."

OMB also calls on the Army to pay $1.1 million in stipulated penalties assessed under Longhorn's FFA.

A second EPA spokeswoman says that the Army is now revising the three records of decision that were in dispute to reflect McCarthy's decision. -- Suzanne Yohannan

Return to Top

News Headline: EPA announces latest steps addressing Missouri landfill fire |

Outlet Full Name: Associated Press
News Text: KANSAS CITY, Mo. (AP) - The owner of a burning suburban St. Louis landfill near buried radioactive waste has agreed to new measures meant to slow and help monitor the underground blaze, a U.S. Environmental Agency administrator said Thursday.

While stressing there's no evidence the nagging fire has greatly spread, regional EPA chief Mark Hague told reporters on a conference call that Republic Services will install temperature monitors, as well as cooling loops or heat extractors designed to help control the fire's temperature.

The company also will broaden a plastic cover over the landfill, partly to suppress odors and to block out oxygen that could feed the blaze, Hague said.

As part of the agreement, the EPA said, Republic must submit plans for the cooling system within 30 days and finish the work four months after construction begins.

The smoldering Bridgeton Landfill west of St. Louis is adjacent to the West Lake Landfill, where Cold War-era nuclear waste was buried four decades ago. Hague said the moves made public Thursday were precautionary.

"Ultimately, the goal is to get a proposed final remedy in place this year," he said.

In December, the EPA ordered the installation of an isolation barrier to make sure the underground fire - the cause of which is unknown - does not reach the nuclear waste at West Lake, which was declared a Superfund site in 1990.

Republic said in a statement Thursday that "we have been ready to put these protective measures in place for some time, and we remain committed to working with the EPA on the implementation of an isolation barrier" between the fire and the radioactive waste.

Hague said the actions announced Thursday were months in the making and "completely independent" of a federal judge's decision two days earlier to send the state of Missouri's environmental lawsuit against Republic back to a St. Louis County court.

Missouri Attorney General Chris Koster sued Republic in 2013, alleging negligent management and violation of state environmental laws. The landfill often creates an odor so strong that many residents say they are often forced to stay indoors.

Last October, the company pushed to move the lawsuit to federal court, arguing that Koster's office was seeking to assert state control over radioactive material under federal jurisdiction.

Koster called the move a few months before a trial date a stalling tactic.

The judge ruled Republic had injected a federal question into an otherwise state-law claim.

Return to Top

News Headline: Some are unhappy with EPA payment plans for mine waste spill |

Outlet Full Name: Associated Press
News Text: DURANGO, Colo. (AP) - Southwestern Colorado officials are unhappy the Environmental Protection Agency won't pay their county for future water monitoring and other expected expenses related to a mine waste spill the EPA accidentally triggered.

But the EPA said Thursday it has already reimbursed La Plata County more than $200,000 in expenses and has agreed to pay the state for long-term monitoring.

The Durango Herald reports (http://tinyurl.com/zusgu2y) the agency told county officials Wednesday it wouldn't pay $2.4 million the county is seeking for expected future costs including monitoring water and developing response plans.

The EPA said it doesn't cover future expenses under a cooperative agreement the

county is proposing. County officials said that contradicts what the EPA said earlier.

An EPA-led cleanup crew triggered a 3-million-gallon spill from the Gold King Mine in August.

Return to Top

News Headline: EPA: Cleanup not required at uranium mines near Edgemont |

Outlet Full Name: Associated Press
News Text: EDGEMONT, S.D. (AP) - The U.S. Environmental Protection Agency says no cleanup will be required at three abandoned uranium mines near Edgemont.

The Rapid City Journal reports (http://bit.ly/1VCGkRr) that the EPA announced its decision Tuesday after looking at on water and sediment sampling taken in September. The agency says it was unable to document a release of hazardous substances that would cause serious human health or ecological effects.

The assessment was requested by the nonprofit Institute of Range and the American Mustang, owner of the Black Hills Wild Horse Sanctuary.

The abandoned mines are 13 miles northwest of Edgemont, on the southwestern edge of the Black Hills. The Black Hills Wild Horse Sanctuary is about 20 miles east of Edgemont.

The EPA's contractor conducted sampling upstream and downstream from the abandoned mines.

Information from: Rapid City Journal, http://www.rapidcityjournal.com

Return to Top

News Headline: Vermont beefs up efforts to tackle pollution |

Outlet Full Name: Berkshire Eagle, The
News Text: BENNINGTON, VT. >> Days after the company believed to be responsible for contaminating private wells challenged the state's acceptable levels for the chemical PFOA, state officials are beefing up efforts to tackle pollution.

An emergency ruling issued by environmental officials on Thursday set an interim enforcement standard for PFOA, the chemical found in wells in North Bennington and Pownal, and declared the chemical formerly used to make Teflon to be a

hazardous substance.

In addition, local legislators are involved with a new law that aims to give more teeth to laws that environmental regulators use to make polluters pay for a cleanup.

The emergency ruling by the state Department of Environmental Conservation comes days after Saint-Gobain, which the state says is "potentially responsible" for PFOA contamination, filed an appeal challenging the state's acceptable level of PFOA.

"It's unfortunate the company has chosen to take this approach with the state, although we will continue to move forward and work together on what we do agree with," DEC Commissioner Alyssa Schuren told the Banner on Thursday. "We do ultimately expect to prevail in both lawsuits."

Schuren said her agency will start the rule making process on Friday to set a final enforcement.

PFOA, or perfluorooctanoic acid, was a key part of the process to make Teflon the non-stick, water-repellent coating once used in cookware, to insulate wires and in tapes and foams.

The chemical has been linked to cancer and other diseases. It's been found in private wells in North Bennington and Pownal, and a municipal water system serving part of Pownal. Bennington and North Bennington's municipal water systems are not affected.

In March, the Agency of Natural Resources and Department of Health set an Interim Enforcement Standard, or "health advisory," of 20 parts per trillion (ppt) of PFOA in groundwater. Other states have higher levels. It's 100 ppt in New York, where more than 3,000 Hoosick Falls residents were told to not drink tap water for four months because of contamination believed to be from a facility Saint-Gobain has owned since 1996. The federal "guidance level" from the EPA is 400 ppt.

Saint-Gobain's complaint, filed in Washington County Superior Court in Montpelier last week, argues the state has no scientific basis for setting the 20 ppt interim standard and argues it is not enforceable. An appeal filed in the state's Environmental Court argues the standard be overturned because it is based on a draft health effects document from the federal EPA.

Saint-Gobain spokeswoman Dina Pokedoff-Silver said the company filed the appeal "since it's critical for us, the North Bennington community, Vermonters and all involved to participate in the fair rule making process and understand the specific science the state has evaluated and vetted that led to setting the limit at this level."

She continued: "While we respect the state's right to set its own PFOA limits in a fair

manner and based on sound science, it's important that the state adopt a standard that is reasonably appropriate, protective and realistic from a public health standpoint. Saint-Gobain is asking to have the opportunity to comment on the interim standard, as well as the emergency rules that Vermont just issued. The company will comply with any and all laws of the state and our appeal does not impact the commitments we have already made."

State Sens. Brian Campion and Dick Sears, D-Bennington, said new legislation with their amendments aims to prevent future contamination and give more power to state agencies seeking cleanups from companies. Bill H.595, first proposed by Robert Krebs, was passed unanimously by the Senate's Committee on Natural Resources and Energy on Wednesday and is set to be on the House floor next week.

"We don't want citizens and the state to pick up the tab of polluters," Campion said.

The bill requires water in new wells be tested for chemicals including arsenic, lead, fluoride and total nitrate and nitrite. It also would allow ANR add chemicals if historic or geographic use warrants it. It would also allow funds from the Environmental Contingency Fund be spent without first requiring a potentially responsible party contribute to the fund.

Saint-Gobain has voluntarily agreed to reimburse the state for costs for providing bottled water for residents around North Bennington and Pownal, meaning those funds can be utilized.

The bill includes provisions that would allow the ANR to request information from a potential polluter, including financial information ad well as the type of chemicals used, the dangers of those chemicals, as well as types and locations of releases. Trade secrets and financial information wouldn't be public information.

Campion noted that Saint-Gobain has been cooperating with the state's requests for that information already. Otherwise, it's likely the state would have to pursue that information in court, he said.

Contact Edward Damon at 413-770-6979.

Return to Top

News Headline: House GOP Eyes EPA Budget Cuts, Regulatory Reform For FY17 Agenda |

Outlet Full Name: Inside EPA
News Text: Site License Available Economical site license packages are available to fit any size organization, from a few people at one location to...

Return to Top

News Headline: Feds deciding if coal-export project violates tribal rights |

Outlet Full Name: Advocate Online, The
News Text: The Gateway Pacific Terminal, a venture between SSA Marine and Cloud Peak Energy, would handle up to 54 million metric tons of dry bulk commodities, mostly coal, at a deep water port at Cherry Point. If the Army Corps of Engineers, the federal agency overseeing the permitting process, finds that the proposed terminal would disrupt the tribe's rights to fish in its traditional areas, it won't issue permits. The terminal has become a lightning rod in the debate over whether the Pacific Northwest should become a gateway for exporting fossil fuels to Asia. The tribe says increased vessel traffic would disrupt fishing practices, as well as expose the region to potential oil spills, boat collisions, pollution and other problems. Project developers say they would take measures to avoid or minimize impacts to tribal fishing, including setting up a system to let fisherman know about vessel positions and not allowing tug or tow operations due to tribal concerns about lost fishing gear http://www.stamfordadvocate.com/news/us/article/Feds-deciding-if-coal-export-project-violates-7306391.php Feds deciding if coal-export project violates tribal rights Phuong Le, Associated Press Updated 2:16 pm, Sunday, April 24, 2016 Image 1of/3 Caption Close Image 1 of 3 In this photo taken Sept. 12, 2012, tribal members from the Lummi Nation gather to announce the tribe's opposition to development of a facility at Cherry Point in Whatcom County, Wash., to ship coal brought by train from the Powder River Basin. They ceremonially burned a check on the beach to make a statement that no amount of money could buy their support for a project that would destroy their village and burial sites on the property. (Alan Berner/The Seattle Times via AP) SEATTLE OUT; USA TODAY OUT; MAGS OUT; TELEVISION OUT; ; MANDATORY CREDIT TO BOTH THE SEATTLE TIMES AND THE PHOTOGRAPHER less In this photo taken Sept. 12, 2012, tribal members from the Lummi Nation gather to announce the tribe's opposition to development of a facility at Cherry Point in Whatcom County, Wash., to ship coal brought by ... more Image 2 of 3 FILE - In this Sept. 15, 2015, file photo, Lummi fisherman Jay Julius steers his boat as his cousin Austin Brockie, center, and daughter Teja Julius, right, sort through fresh-caught crab near Cherry Point, Wash. For centuries, Lummi tribal members have set crab pots, dug up clams and fished for salmon in the tidelands and waters of northwest Washington state. But the tribe says a proposed $700 million project to build one of the nation's largest coal-export terminals north of its reservation will threaten that way life. (Evan Abell/The Bellingham Herald via AP, File) MANDATORY CREDIT less FILE - In this Sept. 15, 2015, file photo, Lummi fisherman Jay Julius steers his boat as his cousin Austin Brockie, center, and daughter Teja Julius, right, sort through fresh-caught crab near Cherry Point, ... more Photo: Evan Abell, AP Image 3 of 3 In this Sept. 21, 2012, photo, members of the Lummi Nation protest the proposed coal export terminal at Cherry Point on the Gulf Road beach west of Ferndale, Wash., by burning a large check stamped "Non-Negotiable." For centuries, Lummi tribal members have set

crab pots, dug up clams and fished for salmon in the tidelands and waters of northwest Washington state. But the tribe says a proposed $700 million project to build one of the nation's largest coal-export terminals north of its reservation will threaten that way life. (Philip A. Dwyer/The Bellingham Herald via AP) MANDATORY CREDIT less In this Sept. 21, 2012, photo, members of the Lummi Nation protest the proposed coal export terminal at Cherry Point on the Gulf Road beach west of Ferndale, Wash., by burning a large check stamped ... more Feds deciding if coal-export project violates tribal rights 1 / 3 Back to Gallery SEATTLE (AP) - For centuries, Lummi tribal fishermen have harvested, dug up clams and fished for salmon in the tidelands and waters of northwest Washington state. Now, the tribe says a proposed $700 million project to build the nation's largest coal-export terminal threatens that way of life. The tribe last year asked federal regulators to deny permits for project, saying it would interfere with the tribe's treaty-reserved fishing rights. The Gateway Pacific Terminal, a venture between SSA Marine and Cloud Peak Energy, would handle up to 54 million metric tons of dry bulk commodities, mostly coal, at a deep water port at Cherry Point. Coal would be shipped by train from Montana and Wyoming for export to Asia. If the Army Corps of Engineers, the federal agency overseeing the permitting process, finds that the proposed terminal would disrupt the tribe's rights to fish in its traditional areas, it won't issue permits. A decision is expected this week. Like many tribes, the Lummi signed a treaty with the U.S. government in 1855 in which it ceded its land but reserved the right to hunt and fish in "usual and accustomed" areas. "The Corps should honor the trust responsibility and deny the permit," said Timothy Ballew, chairman of the coastal tribe, which has more than 5,000 members and one of the largest tribal fishing fleets in the country. "Our fishermen have fished there since time immemorial." Seattle-based SSA Marine says the Corps should find that project poses less than a minimal impact on the tribe's fishing rights. The company contends that the most productive fishing for the tribe does not occur near the wharf. "They didn't provide real evidence that they fish there a lot," senior vice president Bob Watters said. The company also believes an environmental review that began in 2013 should be completed. Earlier this month, however, project developers asked state and federal regulators to temporarily halt that environmental review while the Corps heard the Lummi's request. The terminal has become a lightning rod in the debate over whether the Pacific Northwest should become a gateway for exporting fossil fuels to Asia. Environmental groups strongly oppose the proposal, worried about the greenhouse gases pollutants produced by burning coal and other issues such as increased train and vessel traffic. Meanwhile, some business and labor groups say it will create hundreds of jobs and generate tax revenue. The Crow Nation of Montana, which has an option for ownership in the new terminal, backs the project as vital to its future. Lawmakers in Montana have led efforts to block the Corps from denying a permit until the environmental review is done. If the federal agency denies the permit on the grounds of fishing rights, it wouldn't be the first time. "It's fairly common," said Robert Anderson, a University of Washington law professor who directs the school's Native American Law Center. In 1996, the Corps denied a permit for salmon farm west of Lummi Island because it would interfere with tribe fishing rights. A federal court upheld that decision. When federal agencies like the Corps issues

permits, "they have an obligation to protect treaty resources. The Corps will have to take into account whether there will be an adverse effect on Indian treaty rights," Anderson said. The proposal would bring up to 487 vessels to a proposed three-berth wharf in an industrial zone about 100 miles north of Seattle. The company says the site presents a unique location, partly because it can accommodate the largest ships in naturally deep water. The tribe says increased vessel traffic would disrupt fishing practices, as well as expose the region to potential oil spills, boat collisions, pollution and other problems. Project developers say they would take measures to avoid or minimize impacts to tribal fishing, including setting up a system to let fisherman know about vessel positions and not allowing tug or tow operations due to tribal concerns about lost fishing gear. The tribe says impacts can't be mitigated and the terminal and activities would severely limit the ability of its members to exercise their treaty rights. View Comments

Return to Top

News Headline: SENATE WRDA BILL SEEKS TO BOLSTER WATER INFRASTRUCTURE FUNDING, POLICY |

Outlet Full Name: Inside EPA
News Text: Senators have introduced an Army Corps of Engineers authorization bill that contains several measures targeting water infrastructure funding and affordability, including financial assistance to states for use in drinking water emergencies, a requirement that EPA revise its household affordability guidelines and amendments to the Water Infrastructure Finance and Innovation Act (WIFIA).

Water industry sources and lawmakers -- including Senate Environment & Public Works Committee Chairman James Inhofe (R-OK) and ranking member Barbara Boxer (D-CA) -- indicated in prior weeks that the 2016 Water Resources Development Act (WRDA) was a logical vehicle for several water infrastructure measures. The biennial Army Corps bill is mostly meant to authorize Corps projects but was used as the vehicle for the novel WIFIA program in 2014 -- a section senators seek to amend in their 2016 proposal.

The Senate bill introduced April 26, S. 2848, includes clarifying amendments to 2014's WIFIA, as well as a "sense of the Senate" that appropriations made for the program "should be in addition to robust funding" for the clean water and drinking water state revolving funds (SRFs). "The appropriations made available for the funds . . . should not decrease for any fiscal year," the sense of the Senate states. The bill is available on InsideEPA.com. (Doc. ID: 190828)

Many water advocacy and environmental groups have long expressed concerns that WIFIA, which authorizes EPA to make loans directly from the U.S. Treasury for drinking water and wastewater projects, to cover up to 49 percent of the program's cost, would undercut SRF appropriations.

And during an April 19 EPW hearing, Senate Democrats pressed EPA Administrator Gina McCarthy on the agency's plan to cut the clean water SRF in fiscal year 2017 from its enacted $1.39 billion down to $979 million, though the administration is requesting a boost to the drinking water SRF from the current $863 million up to $1.02 million. Additionally, EPA is seeking first-time funding for WIFIA loans of $15 million.

Boxer specifically critiqued the clean water SRF request in the context of the administration's boost for WIFIA: "It's wonderful to have this WIFIA program, but it shouldn't replace the state revolving funds. We want to have the state revolving funds be healthy, and then have the leveraging ability of WIFIA come into play," she said.

A water industry source calls Boxer's exchange with McCarthy "encouraging" and said the Senate's WRDA language on water infrastructure is a "massive" change in Congress' support of such programs.

"The political environment has changed in favor of an expedited process from the attention to Flint and all the corollary attention to water issues," the source says. "There is currently much more interest in new water policy, especially funding policy. Good to see Congress is beginning to recognize the problems with WIFIA and curtail it."

In April 26 statements, Inhofe and Boxer highlighted the bill's aim to improve water infrastructure.

"WRDA will also address our nation's aging drinking water and wastewater infrastructure by supporting federal programs that encourage local and private investment, and reform existing authorities to allow states to partner with the federal government when necessary to help disadvantaged or high-risk communities address their water resource needs," Inhofe said.

Boxer added, "What happened in Flint has shown us how vulnerable some of our water systems are, and this bill is a perfect vehicle to upgrade our water infrastructure."

The bill authorizes both WIFIA and SRF assistance for states subject to presidential emergency declarations "due to the presence of lead or other contaminants in a public drinking water supply system" -- $100 million for state assistance through the drinking water SRFs, and $70 million for credit subsidies through WIFIA.

The Senate proposed the same figures in an amendment to its sweeping energy bill last month, but they were targeted specifically for Flint, MI, and were blocked from passage. This measure was also included in a separate water funding package introduced by Senate Democrats April 20, S. 2821.

The Senate WRDA bill would also require EPA to revise within a year its financial capability guidance, first published in 1997, and its accompanying 2014 update to the guidance, the "Financial Capability Assessment Framework." The 2014 framework was meant to clarify rather than update or change the 1997 guidance, which provides municipalities with guidelines for determining whether a household can afford to pay its water bills "without undue hardship or unreasonable sacrifice" -- including the costs associated with complying with Clean Water Act (CWA) compliance costs.

EPA has long been resistant to making sweeping changes. But the Senate bill would require EPA to make broader reforms to the guidance that some water industry, municipal and environmental groups have long sought, such as removing "median household income" (MHI) as the sole measure of affordability for a residential household. The guidance in its current form includes several measures a community can consider in its definition of affordability beyond MHI, but critics say MHI is still too frequently used as a default and it does not capture the complexities faced by many low-income households.

The bill requires the EPA administrator to update its guidance "not later than 1 year after" the National Academy of Public Administration completes a study to establish a new definition and framework for community affordability.

The Senate WRDA bill also includes many other water infrastructure funding assistance measures previously introduced as standalone bills: a new grant program authorizing $300 million between FY17 and FY21 for "lead service line replacement, testing, planning, corrosion control and education"; authorization for permits to incorporate the use of integrated plans and new requirements for the EPA Administrator to inform municipalities of "the opportunity to prepare an integrated plan"; a water infrastructure trust fund that would collect fees from a voluntary labeling system to boost the SRFs; a new public-private partnership pilot program that would amend the one established by the 2014 WRDA law by removing the requirement that it be authorized via an appropriations bill; a host of measures promoting innovative water technologies; and a host of measures aimed at providing assistance to rural communities and small water systems.

The House has yet to release its version of WRDA, and it is expected to take a different approach. As in prior years, House Transportation & Infrastructure Committee Chairman Bill Shuster (R-PA) is said to prefer a "clean" WRDA bill without additional water funding provisions attached. But the final version of the 2014 Army Corps authorization legislation included authorization for WIFIA.

A congressional source previously told Inside EPA that Shuster still "does not want to go down that road" in the House, and other sources indicated that there are some fears a WRDA debate could dredge up bipartisan divisions on the CWA jurisdiction rule if it includes too many water-related provisions. -- Amanda Palleschi

Return to Top

News Headline: Opponents of proposed oil pipeline holding 500-mile relay |

Outlet Full Name: Associated Press
News Text: CANNON BALL, N.D. (AP) - American Indians and others who oppose a proposed oil pipeline from North Dakota to Illinois are taking part in a 500-mile spiritual relay.

Opponents of the $3.8 billion Dakota Access Pipeline are running from Cannon Ball, North Dakota, to the Army Corps of Engineers office in Omaha, Nebraska.

The Bismarck Tribune reports (http://bit.ly/1T6IBh5) the relay began Sunday and should end next Tuesday.

The 1,130-mile pipeline planned by Dallas-based Energy Transfer Partners would pass through the Dakotas and Iowa on its way to Illinois. Regulators in all states have approved the project, but it still needs approval from the corps.

Tribal officials fear contamination to drinking water. Energy Transfer Partners maintains the pipeline will be safe.

Standing Rock Sioux officials plan to meet with a corps official Friday in South Dakota.

Information from: Bismarck Tribune, http://www.bismarcktribune.com

Return to Top

News Headline: L.I. Sound dredging plan continues |

Outlet Full Name: Connecticut Post
News Text: April 28--The federal Environmental Protection Agency is proposing to continue underwater dumping of toxic dredge material at a site in the Eastern Long Island Sound that had been scheduled to close at the end of the year.

The New London disposal site will instead be partially closed and expanded beyond its existing underwater footprint to increase capacity. The EPA intends to close the existing Cornfield Shoals disposal site near the mouth of the Connecticut River.

"We are proposing to go from two sites to one," said Mel Cote, chief of the surface

water branch for EPA's New England region. "We are also adding new restrictions and procedures."

EPA will hold four public hearings to receive comments on the proposed underwater disposal rule. Registration will begin 30 minutes before each of the four hearings.

The hearing will be held:

May 25 from 1 p.m. to 3 p.m. at the Suffolk County Community College Culinary Arts Center, 20 East Main St., Riverhead, NY and from 5:30 p.m. to 7:30 p.m. at the Mattituck-Laurel Library, 13900 Main Rd., Mattituck, NY, 11952.

May 26 from 1 p.m. to 3 p.m., and from 5 p.m. to 7 p.m., at the University of Connecticut's Avery Point Academic Building, Room 308, 1084 Shennecossett Rd, Groton.

Those restrictions are intended to "promote the beneficial use of dredged material, such as beach nourishment, or other alternatives to open-water disposal whenever practicable," the EPA said in a statement issued Wednesday.

Environmentalists quickly criticized the decision, saying the Sound should not be used as a dumping ground for contaminated material removed from harbors, ports and marinas in Connecticut and New York State.

"The EPA should be closing dump sites not extending existing sites and proposing new ones," said Louis Burch, program director for the Citizen's Campaign for the Environment.

"This is still contaminated material," Burch noted. "Suitable material is a very gray term."

Dennis Schain, a spokesman for the state Department of Energy and Environmental Protection, said the agency supports the EPA plan, and pointed out that the dredged material to be disposed of at underwater sites is already in the Sound

"We are pleased that EPA continues to recognize the need to preserve options for open water disposal of dredged materials," Schain said. "Connecticut's ports, harbors and marinas rely on periodic dredging projects to remain open and available to serve the needs of our state."

A recent Hearst Connecticut Media review of a dredging plan developed by the U.S. Army Corps of Engineers and now proposed by the EPA found multiple government studies confirming that dredged material stays put after placement, but little science detailing the impact on nearby fish and marine life -- or on the 20 million people who live near the Sound's shores.

The review also found stiff opposition to the dredging plan in New York State, in part because Connecticut's maritime economy and dredging needs dwarf New York's. Connecticut's sediment is far more polluted, due to generations of industrial factories that dumped pollutants into rivers and the Sound.

Expanding

Cote said EPA proposes to close half of the 1 square mile New London underwater disposal site and continue using the remainder. An additional 1 square mile of seabed not previously used for disposal would be added to the site, making the new site 2 square miles in size, he said.

The disposal area is being called the Eastern Long Island Sound Disposal Site, and will have a capacity of 27 million cubic yards of dredged material. The site now holds 2.8 million cubic yards and had a projected capacity to take an additional 7.8 million cubic yards over the next 30 years.

The draft rule proposed Wednesday will be the subject of public hearings next month and follows a similar rule issued in February that continued use of the Western underwater disposal site, roughly off Stamford, and a Central site off New Haven.

The Army Corps estimates that up to 52 million cubic yards of dredged material -- enough to build 12 Hoover Dams -- could be disposed of in the Sound over the next 30 years.

Cote said a regional dredging team would be empowered to review each dredge application and evaluate projects and take on a proactive role in "developing alternatives" to dredging and new technologies to dispose of the material.

"The goal is to reduce open water disposal," Cote said.

"Disappointing"

Asked about complaints that underwater disposal is harmful to marine life and the Sound, Cote dismissed those suggestions.

"The Sound is one of the most closely monitored bodies of water in New England," Cote said. "There are claims but there is no scientific data to back up the claims."

Material disposed of underwater water is contaminated but does not contain certain heavy metals and substances such as cancer causing PCBS. Sediment that's more highly toxic is buried within harbors and tightly capped to prevent any mobility.

A spokesperson with the New York State Department of State did not immediately comment on the EPA proposals. The DOS has previously opposed the overall dredging plan.

Burch said it is "disappointing to say the least" that the EPA plans to continue underwater disposal of dredged material.

"It's discerning EPA cannot come up with a more sustainable way," Burch said. "They want to continue business as usual and dump dredged material in one of our most precious natural resources."

Schain said open water disposal has been "proven to be an environmentally sound practice" over decades.

"EPA's proposal will maintain the availability of an open water site in Eastern Long Island Sound, which is critical for meeting future maintenance dredging needs to support recreational boating, the coastal economy and the continued operations of the U.S. submarine base in Groton," Schain said.

Return to Top

News Headline: EPA Plans Open-Water Dredge Disposal Site Off New London |

Outlet Full Name: Hartford Courant Online
News Text: Federal environmental officials are planning to designate a previously used disposal site in the open waters of Long Island Sound off New London to get rid of as much as 22.6 million cubic yards of dredge materials over the next 30 years. Open-water dumping of muck dredged from harbors and marinas around the Sound has become a contentious issue pitting Connecticut and New York state officials against each other. The new proposal announced Wednesday by the U.S. Environmental Protection Agency (EPA) involving the eastern Sound disposal site is the latest development in the federal government's long-term dredging and disposal plans for the region. In February, the EPA proposed continued use of open-water sites off Darien, and in the central Sound off New Haven. Mel Cote, the chief of the surface water branch of EPA's New England regional office, said the eastern Sound disposal site being proposed now covers about two square miles, and incorporates about half of the existing disposal location. The other half of the previously used site is being closed because it has reached capacity, Cote said. Most of the material dredged up around the Sound is expected to come from Connecticut harbors and marinas. New York officials and environmentalists say disposing of that stuff in the open waters of the sound could hurt the region's marine ecology, and violates the spirit of a 2005 agreement to find alternative uses for dredged material. Connecticut officials insist that only limited amounts of the millions of cubic yards of muck, sand and silt from harbors can be used on beaches and to rebuild marshlands. “EPA

determined that a site [in the eastern Sound] was necessary because there are currently no disposal sites designated for long-term use in the eastern Long Island Sound region," federal agency officials said in a statement. Federal officials said there would be restrictions on disposal of any toxic materials in the open water site, just as there are for the other two sites approved for the western and central regions of the Sound. In a prepared response, officials of Connecticut's Department of Energy and Environmental Protection (DEEP) said Wednesday: "We are pleased that EPA continues to recognize the need to preserve options for open water disposal of dredged materials." "While finding beneficial reuses for materials resulting from dredging projects is always our first priority, it is not always possible or practical to do that," DEEP officials said. "In such cases, open water disposal – with proper oversight and management – has proven to be an environmentally sound practice over the past four decades."

2016-04-27

Return to Top

News Headline: Murray Energy continues fight against EPA's emissions rules |

Outlet Full Name: Associated Press
News Text: CHARLESTON, W.Va. (AP) - One of the nation's largest coal companies is challenging the U.S. Environmental Protection Agency's final ruling that the agency's 2014 mercury and air toxics standards will stay in place even after a new consideration of costs.

The State Journal (http://bit.ly/26rqE7d) reports that Murray Energy filed a brief with the U.S. Circuit Court of Appeals for the District of Columbia Circuit on Monday, challenging the EPA's supplemental finding that was submitted earlier in the day.

The EPA submitted the supplemental finding nearly a year after the U.S. Supreme Court ruled that the regulation could stay in place as the EPA conducted a cost-benefit analysis. Still, the high court found the EPA failed to take costs into account when the agency first decided to regulate the toxic emissions from coal- and oil-fired plants.

Information from: The State Journal, http://www.statejournal.com

Return to Top

News Headline: Northern Pass vs. souls and sales |

Outlet Full Name: Hampton Union - Online, The
News Text: ...be over 100 feet high. Concord alone will have 77 towers. The visual and environmental impact is not limited to the height of the...

Return to Top

News Headline: ADVISORS SPLIT OVER EPA PLAN TO USE HUMAN DATA TO REGULATE INSECTICIDE |

Outlet Full Name: Inside EPA
News Text: EPA science advisors are split over the agency's plan to tighten regulation of a commonly-used insecticide to protect against neurodevelopmental risks, with several advisors arguing the decision is based on limited epidemiological data, although others say the agency's novel approach is reasonable given the potential risk to children.

EPA for years has struggled with how to protect against a possible neurodevelopmental risk to children from exposure to chlorpyrifos, and late last year the agency proposed banning use of the substance on food to protect against risks from aggregate exposure, including neurodevelopmental risks to the developing fetus.

The agency is assessing the risk of chlorpyrifos and other organophosphate pesticides, and has shifted focus from protecting against inhibition of the enzyme acetylcholinesterase (AChE) in the nervous system to protecting against neurodevelopmental effects, which may occur at lower levels of exposure.

The change is based in part on epidemiological data which measures human health effects resulting from exposure rather than animal toxicology tests that have traditionally supported agency pesticide reviews. The approach has drawn criticism from the U.S. Department of Agriculture (USDA) and pesticide industry groups who say it is unnecessary and has not been properly vetted, and EPA convened an advisory panel to weigh in on the issue.

During the April 19-21 Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) SAP review in Arlington, VA, several panelists levied strong criticism against EPA's approach, arguing the plan is based on a single Columbia University epidemiological study that was not designed for regulatory purposes.

"EPA is put in a hard spot here because these [epidemiological] studies are good, but they were set up to be research studies and not to be used in regulation," said panelist Marion Ehrich, a professor of pharmacology and toxicology at the Virginia-Maryland College of Veterinary Medicine.

Ehrich and other panelists, including panel chairman James McManaman, a professor of obstetrics and gynecology at the University of Colorado, also raised concerns about limitations in the epidemiological study, including the analysis of the data.

"There has been a longstanding concern about the use of these data," McManaman said, noting that prior SAPs recommended against using the studies, and arguing the current SAP can not ignore the limitations.

But at least two other panelists generally backed EPA's approach, noting that the current regulation based on the AChE endpoint is inadequate to prevent potential neurodevelopmental risks in children.

Stella Koutros, of the National Cancer Institute, said EPA is taking reasonable steps to protect children. She also faulted other panelists for backing industry arguments that uncertainties surrounding the evidence are sufficient to hold off moving to a more protective endpoint.

Koutros also argued that the prior SAPs, in 2008 and 2012, had assessed the strength of the data and the role of the current SAP is to assist EPA in how best to use the study that agency officials believe is strong.

"That's not what we're here to judge," Koutros told panelists who criticized limitations in the epidemiological evidence. "The agency it appears to me has made the decision, they're using the data," and is asking for the panel's assistance in how to apply the information.

Industry groups and the USDA have argued that EPA's plan to strengthen oversight of chlorpyrifos and other organophosphate pesticides based on epidemiological data conflicts with long-standing agency practice. They have called for EPA to craft procedures for using epidemiological data in pesticide risk assessment and seek outside input on that process.

Additionally, industry has argued that EPA's plan to use the Columbia University study to ascribe a neurodevelopmental risk is inappropriate because the researchers have not provided the study's raw data to the agency for further analysis.

At the outset of the SAP, EPA officials said the agency recently wrote Columbia a letter requesting the raw data, and have been told they would receive it, though they have not yet.

During the meeting, EPA staff said the agency has followed the recommendation of a prior SAP and used modeling to help corroborate the Columbia study's findings. Agency officials also defended the study, calling it strong, and saying the research is especially informative given that the study came around the same time as EPA and industry in 2000 reached a voluntary agreement to end indoor uses of chlorpyrifos.

Anna Lowit, a senior scientist and toxicologist in EPA's pesticides office, said the study's analysis of chlorpyrifos levels in blood and neurodevelopmental effects in children were "strikingly different" before and after the regulatory change, resulting in a "pseudo dose response" between chlorpyrifos exposure and neurodevelopmental risks "that is unique to epidemiology."

Lowit also pushed back against panelists' assertions that EPA's decision is based on a single epidemiological study, saying the Columbia study is "one piece of a very large" body of research on chlorpyrifos that spans hundreds of studies and many years.

During the three-day SAP meeting, several panelists said they were troubled by the degree EPA is basing the decision on a single study that can not be reproduced.

"What I would like to see to reduce my uncertainty is replication of this study," said Isaac Pessah, a professor of pharmacology and toxicology at the University of California Davis' School of Veterinary Medicine.

Alvin Terry, a pharmacology and toxicology professor at Georgia Health Sciences University, said the study uses exposure estimates based on a single point in time and suggested a risk from such low levels of exposure as to not be biologically plausible. "It's very difficult for me to connect the dots and make a recommendation on a decision of such magnitude," he said.

But Koutros and another panelist, while acknowledging limitations in the data, said EPA's approach is reasonable and that agency risk assessors have advanced understanding and usefulness of the data through modeling of potential exposures.

"The fact that we do not understand the mechanism by which [a neurodevelopmental effect] occurs does not mean that it does not actually happen," Koutros said.

Sharon Sagiv, an epidemiology professor at the Unviersity of California at Berkeley, defended aspects of EPA's analysis but also agreed with other panelists' concern that the agency is putting significant stock in a single study.

"From a logical standpoint, how do we come to the middle here?" she asked. "As a panel we can't ignore the fact that we have an epi study suggesting an association with neurodevelopmental effects" even if there are limitations in the research.

The panel floated a variety of options for EPA to consider to strengthen the pool of data to better defend their approach. The ideas include contracting an independent lab to conduct additional analysis of the Columbia researchers' data, should it become available, or searching for other studies that may have blood samples containing chlorpyrifos that could be analyzed, or using a weight of evidence approach that looks at epidemiological data along with other factors. -- Dave

Reynolds

Return to Top

News Headline: DRAFT EPA PESTICIDE REVIEW CITING BEE RISK GENERATES COMPETING CONCERNS |

Outlet Full Name: Inside EPA
News Text: Pesticide producers and environmental groups are raising conflicting concerns to EPA on its draft review of the insecticide imidacloprid's risks to pollinators, with industry arguing the assessment relies on overly conservative assumptions while advocates say the draft underestimates risks to bees and overlooks risks to numerous other species.

EPA took comment through April 14 on its preliminary risk assessment of imidacloprid, which found residues of the commonly-used neonicotinoid insecticide in the pollen and nectar of citrus and cotton, both bee-attractive crops, may be present above a threshold level where harms to bee hives are likely.

Industry and advocacy groups back competing aspects of the draft and call for revisions in advance of a final version that would either reduce estimates for risk and toxicity or expand the review to consider a broader array of potential risks. Relevant documents are available on InsideEPA.com. (Doc. ID: 190798)

The pesticide producers association CropLife America and several pesticide manufacturers, including Bayer CropScience, argue in separate comments that the draft review shows that risks to bees from imidacloprid can be mitigated and are low, a point they urge the agency to emphasize in public statements.

"The overall conclusion of the Agency's assessment is that imidacloprid use represents a minimal risk to pollinators for the overwhelming majority of use patterns," Bayer says. "This low risk conclusion has important implications for US Agriculture and should be explained to clarify that growers can be productive, safe and reliable users of critical insecticides when the proper labels and use directions are followed."

But an array of environmental groups say the assessment shows EPA's new pollinator risk assessment process underestimates exposures to honey bees, fails to adequately consider risks to non-honey bee species, and to consider cumulative and synergistic risks that occur from multiple pesticides or from pesticides and other stressors.

"EPA's risk conclusions, reliant on a narrow set of exposure and toxicity information and riddled with uncertainty, could significantly underestimate risk thus continue to put pollinators, especially native pollinators, at risk," the Xerces Society for

Invertebrate Conservation says.

The draft review's risk finding appeared to back environmentalists' long-standing arguments that neonicotinoid insecticides are harming bee colonies and should be restricted, though pesticide producers have argued that EPA has publicly overstated its risk findings, which apply to only a few uses and can be mitigated through labeling.

EPA's Jan. 6 draft review is the first of four pollinator risk assessments EPA is conducting as part of its Federal Insecticide, Fungicide, and Rodenticide Act registration review of the controversial neonicotinoid class of pesticides. EPA is conducting the reviews using a new pollinator risk assessment framework finalized in 2014.

The reviews are also part of federal agencies' effort to implement President Obama's June 2014 memo on strengthening pollinator health by improving habitat and assessing risks to bees from pesticides and other stressors.

In the draft imidacloprid review, EPA says data show its use on citrus and cotton may lead to pesticide residue levels in pollen and nectar exceeding 25 parts per billion, a threshold for when harms to pollinator hives are likely. Other crops, including corn and leafy vegetables, either do not produce nectar or have residues below the risk threshold.

While the review found certain uses of imidacloprid pose risks to bee colonies, agency officials have said the draft review appears to suggest that the controversial use of imidacloprid as a seed treatment does not harm bees, according to published reports.

In comments to the agency, several pesticide production and distribution companies, including Bayer, Nufarm and Helena Chemical, call EPA's finding of risk from imidacloprid to pollinators "minimal." They argue the finding justifies continued EPA oversight of imidacloprid use through pesticide labels to mitigate the risks.

The companies say EPA should strengthen the review by addressing errors and assumptions that overestimate exposure and toxicity, such as estimates based on maximum field measurements, methodologies for estimating off-field risks due to spray drift, and flawed use of a chronic oral toxicity endpoint.

The companies and CropLife, in separate comments, also say the draft review includes "unsupported and unwarranted" statements on the persistence and potential accumulation of imidacloprid in soil. The claim of unsubstantiated agency remarks expands on industry arguments after release of the draft that EPA's public statements on the review fail to accurately reflect its finding that risks are limited and can be addressed.

The industry groups urge EPA, in a final assessment, to stop misleading public statements that highlight a few cases of minor risks. "Honey bee populations are not declining, nor is there evidence that labeled uses of imidacloprid are affecting colony health," CropLife says.

Meanwhile, some environmental groups argue the risk findings are sufficient to support immediate suspension of imidacloprid use until uncertainties raised in the draft review can be addressed. Advocates also say the draft shows that the pollinator risk assessment framework the agency intends to use in future reviews discounts significant exposures.

Groups including Xerces, the Center for Food Safety (CFS), Center for Biological Diversity (CBD), Natural Resources Defense Council (NRDC), Beyond Pesticides and the American Bird Conservancy (ABC), in separate and joint comments urge EPA to strengthen the review to better address imidacloprid's full range of ecological risks.

Generally, the groups argue the narrow draft review fails to adequately consider risks to non-honey bee species, non-agricultural uses and underestimates or ignores risks to bees through the release of contaminated dust during planting, and from cumulative and synergistic effects from multiple pesticide products, mixed ingredients or disease.

ABC, in April 14 comments, says the draft review "scarcely mentioned" birds, bats, beetles and other non-honeybee pollinators. "Hence the analysis touches only the tip of the iceberg in terms of imidacloprid-related threats to this broader world of pollinators."

Several groups also argued that EPA's narrow review failed to adequately assess risks to honey bees.

CFS argues the registrant-submitted feeding study of imidacloprid's risks to whole colonies is inadequate, with findings skewed by unusually high mortality in the control hives, feeding times that failed to adequately account for bee foraging, and a cutoff for data collection too early in winter.

In April 14 comments, CBD says that while EPA in the draft acknowledges exposures through contaminated surface waters, plant fluids, soil and leaves, the agency also acknowledges it has insufficient information to understand the importance of such exposures.

"So of all of the potential exposure sources that should have been considered in aggregate, only one was actually measured," CBD says. "This is absolutely unacceptable, and exposes the most prominent weakness in this assessment."

NRDC argues that EPA's review fails to consider synergistic risks, both from

pesticides applied as tank mixes and from potential weakening of colonies from a combination of pesticides and disease. The group also argues the agency fails to consider genetic variability in bee colonies and does not use certain uncertainty factors in its calculations.

"EPA has placed an undeserved and unearned confidence in this assessment -- which doesn't even meet the bar of a sophisticated guesstimate," NRDC says. "Unfortunately now EPA has issued an assessment that will allow almost all uses of imidacloprid to continue. This is because the assessment was limited to impacts on honey bee colonies." -- Dave Reynolds

Return to Top

News Headline: EPA SEEKS COMPANIES' DATA FOR ALTERNATE SKIN TOXICITY TEST ANALYSES |

Outlet Full Name: Inside EPA
News Text: EPA is pressing the pesticide industry for data from alternate, non-animal toxcity testing methods that regulators can compare with results from traditional testing of a variety of chemicals ahead of an international conference in the fall where regulators will seek to advance broader use of the alternative methods.

The goal of the conference in Italy is to craft a decision tree to guide how and when alternate tests for skin sensitization should be submitted to EPA and other regulators, Anna Lowit, a senior scientist in EPA's pesticides office, said during April 13 remarks at pesticide industry association CropLife America's spring conference in Arlington, VA.

"This kind of thing is unprecedented," gathering together regulators of all types of chemical products from pesticides to cosmetics, Lowit said. "My hope is that this is a jumping off point."

Lowit said that EPA and the National Toxicology Program's Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM) are "collecting additional skin sensitization data that span our bases," explaining that "the existing data sets are broad in chemical space, but shallow in their depth."

The cosmetics arena has a strong data set but there is less information for pesticides, Lowit said. "The hope is that . . . we can expand the data within our sector to go into that meeting with a strong sense of where we can go, at least with conventional chemicals," she said.

Lowit noted that many of the companies represented at the conference in Arlington have been running the alternate assays in their research and development tests "for a while" and said she and her colleagues will be calling the companies seeking data for

their analyses, highlighting Dow Chemical Co. for already providing EPA with a large set of such data.

Patricia Bishop, a research scientist in People for the Ethical Treatment of Animal's Regulatory Testing Department, tells Inside EPA in an interview that the approach Lowit describes follows the analysis that EPA has conducted on alternate testing methods for eye irritation. That review started by comparing the results of testing antimicrobial products with both traditional animal tests and alternates for eye irritation.

EPA has allowed use of these alternate tests in antimicrobials since completing this analysis, and Bishop says that EPA is now "doing the paired data [analysis] of eye irritation for conventional [pesticide] products," which involves collecting and reviewing "side by side in vivo and in vitro data."

The agency now wants to do the same thing with skin sensitization, but Bishop cautions that it may be "tough to get that kind of data," saying she doesn't know if there are many other companies that have the kind of data that Dow has given EPA.

Bishop adds that all the alternate tests EPA is considering have been validated through Organisation for Economic Co-operation and Development processes that EPA participates in, but those validations may be done with different kinds of chemicals than those regulated by the pesticides office. EPA pesticides managers will be more comfortable accepting the alternate tests if they do their own analysis with pesticides chemicals, she said.

Efforts by the Office of Pesticide Programs (OPP) to advance use of alternate testing methods and reduce animal testing are centered around the "six-pack" studies that EPA has traditionally required companies to submit as part of the data package the agency uses to assess a pesticide for registration for use in the United States. The six-pack tests follow mandatory testing of a pesticide's active ingredients. These tests of the finished products cover acute toxicity endpoints via oral, dermal and inhalation routes such as eye irritation and skin sensitization.

In a letter to stakeholders last month OPP Director Jack Housenger wrote, "OPP's immediate goal is to significantly reduce the use of animals in acute effects testing (the 'six-pack' studies). Over 50 animals are used for a complete set of 6-pack studies. Annually we receive over 500 acute toxicity 6-pack submissions."

In response to questions after her remarks, Lowit cited Housenger's letter, saying, "We're actually working on multiple fronts to make that happen. And we're working pretty quickly, actually. Many member companies of CropLife are participating in an effort, working to bring in the eye irritation assays."

In addition to the analyses, Lowit pointed to a draft waiver from performing dermal toxicity tests. "Hopefully many of you have seen we have a waiver guidance out for

comment for essentially eliminating that" test requirement, she said. EPA released the waiver along with Housenger's letter last month. It is accepting public comments on the document through May 16.

Bishop explains that OPP scientists compared dermal and oral toxicity test results and "found that dermal tox in 99 percent of the cases is basically redundant. If you had the oral [test results] you could petty much predict what the dermal would be," she said. "So they came up with a waiver, if you have oral [results] you can waive dermal [testing]."

OPP's activities follow a broader trend in the agency of shifting toward greater regulatory use of alternative toxicity testing and screening methods, lauded for being quicker and cheaper than traditional animal toxicity tests, while also consuming far fewer lab animals. OPP and other agency offices are generally expected to make key strides towards greater use of such methods in 2016, with EPA's toxics chief Jim Jones seen as an important backer of the methodologies. -- Maria Hegstad

Return to Top

News Headline: EPA Delays Hazardous Waste Facility Post-Closure Care Guide Until Fall |

Outlet Full Name: Inside EPA
News Text: Site License Available Economical site license packages are available to fit any size organization, from a few people at one location to...

Return to Top

News Headline: CANADIAN SHIPPERS MOUNT NEW CHALLENGE TO EPA'S VESSEL GENERAL PERMIT |

Outlet Full Name: Inside EPA
News Text: Canadian shipping groups have filed a new legal challenge to EPA's 2013 vessel general permit (VGP) after the agency denied their administrative petition seeking to modify the permit, though EPA and the shippers say the agency's pending revision of the permit in response to a separate ruling could address industry's concerns.

The Canadian Shippers Association (CSA) was one of several groups to challenge the 2013 Clean Water Act (CWA) permit, which governs discharges from commercial vessels 79 feet in length or greater, but the U.S. Court of Appeals for the 2nd Circuit severed the industry challenge from environmentalists' arguments and placed their case in abeyance until EPA responded to a parallel administrative petition to change the permit.

After EPA denied the petition in December, CSA filed a new case with the 2nd Circuit, seeking "review of EPA's refusal to modify the Vessel General Permit's best available technology determination, compliance deadlines, demarcation line, and new laker rule," according to the April 19 filing. Relevant documents are available on InsideEPA.com. (Doc. ID: 190764)

CSA and EPA then filed a joint motion April 21, asking the court to combine the new case with the older one and hold both in abeyance until EPA issues its response to the October remand order in the case brought by environmentalists groups, Natural Resources Defence Council v. EPA. The joint motion says EPA's response "may resolve this case without further action by this Court." Specifically, the remand order in the environmentalists' petition"implicates the relief sought by CSA" and that "the interests of judicial economy also favor consolidation" of the cases, because relief sought by CSA in both cases "overlaps significantly," the motion says.

In remanding the VGP to EPA, the 2nd Circuit sided with environmentalists who argued the permit violated the CWA because it did not require use of best available technology to control discharges of invasive species from ships' ballast water.

CSA has raised other concerns with the permit, primarily seeking to exempt its vessels that operate mostly in the Great Lakes region from the VGP's new numeric effluent limits for ballast water discharges.

But water officials from EPA Regions 2, 3 and 5 in their Dec. 22 denial of CSA's petition rejected the group's claim that it was presenting new information.

"In addition, even if the Petition did meet the governing standard, the agency must prioritize its regulatory actions in light of limited resources and does not believe that undertaking a time-consuming and duplicative reassessment of effluent limits for this category of vessels as requested by CSA is appropriate at this time," the officials continue. -- Amanda Palleschi

Return to Top

News Headline: SEN. COTTON EYES LEGISLATION TO AID FLINT PLAINTIFFS SEEKING TORT DAMAGES |

Outlet Full Name: Inside EPA
News Text: Sen. Tom Cotton (R-AK) is considering legislation that would aid plaintiffs in Flint, MI, seeking damages from EPA under the Federal Tort Claims Act (FTCA) by preventing the agency from using the defense that it had discretion on when and whether to take more aggressive action against Flint.

A spokesperson for Cotton's office says the senator is looking at introducing

legislation that would do two things: remove the discretionary function exemption to allow Flint victims to sue EPA under FTCA and require that all awards come out of EPA's budget.

The possible legislation comes as an attorney for hundreds of Flint water users has filed an administrative complaint with EPA seeking $220 million in damages and plans to file an FTCA claim in federal court if the agency rejects the administrative claim, as expected.

Though attorneys for residents have filed several such tort cases against Flint and Michigan Department of Environmental Quality (MDEQ) officials, this is the first such filing against EPA officials. It specifically names Jennifer Crooks, who oversees Michigan's implementation of the Safe Drinking Water Act (SDWA), and Susan Hedman, who resigned in January as Region 5 administrator, as two of the responsible officials.

The administrative complaint, filed April 25 on behalf of 513 Flint water users, alleges EPA is negligent for its "performance of undertaking regarding corrosion control." "performance of undertaking regarding timely investigations," and "undertaking of a duty to warn the public of environmental risks to public health." Relevant documents are available on InsideEPA.com. (Doc. ID: 190881)

The complaint seeks "damages arising out of [EPA]'s negligence in bringing about one of the worst government made environmental disasters in our nation's history," according to an April 25 statement issued by Michigan attorney Michael Pitt, who is representing the plaintiffs. Another 250 residents are expected to be part of a second filing next week, the statement says.

The claims in the April 25 complaint are based primarily on a June 2015 memo from Region 5 EPA drinking water staffer Miguel Del Toral, who had conducted testing for several months in Flint at the request of several residents, and concluded in the report that the city did not step up its corrosion control treatment when it switched water sources from Detroit's water system to the Flint River.

Additionally, the complaint says Flint resident Jan Burgess filed an enforcement request with EPA in October 2014, raising concerns about the corrosive nature of the Flint River water.

"A timely investigation into her allegations would have caused the EPA to take action," Pitt says in his statement, adding that if EPA had followed Del Toral's advice to require Flint to increase corrosion control measures "many of the injuries to the people of Flint could have been avoided or minimized." While Del Toral issued a formal report in June 2015, he raised concerns about the lack of corrosion control as early as February, Pitt notes.

EPA did not take formal action until Jan. 21, 2016, when it issued an emergency

order under SDWA section 1431 and ordered Flint to take specific and immediate corrective actions to lower the lead levels in its drinking water, including adding phosphates.

When pressed during March 17 testimony before the House Oversight and Government Affairs Committee, EPA Administrator Gina McCarthy acknowledged that EPA knew on July 21 "a systemic problem" but could not take SDWA action right away because MDEQ gave the agency "incomplete and absolutely incorrect information" to determine if EPA had that authority.

An attorney with knowledge of the administrative complaint and SDWA says the legislation Cotton is considering would make it difficult for EPA to use the language in section 1431 in defense of the negligence charges.

The law says EPA "may" issue an emergency order if there is imminent and substantial endangerment, and the attorney says the use of the word "may" would provide EPA with a defense under FTCA's "discretionary function exception," which prevents the United States from being held liable for claims based on the performance of a discretionary function or duty on the part of a federal agency or an employee of the government.

The legal source says the Flint lawsuits should push Congress to examine better damage remedies against the federal government but notes politics are clearly involved in Cotton's bill.

"Cotton wants to strip the EPA of that protection, but he's a conservative guy: he wants to dismantle EPA. I'm sure the liberals want to help the victims, but it seems they are all going in the same direction, they are strange bedfellows," the source says.

The damages claims follow an U.S. district court judge's April 19 decision to throw out another tort suit brought by several Flint families, which sought $150 million in damages from state and city officials for months of water bills they paid for lead-contaminated water. Judge John Corbett O'Meara ruled in Beatrice Boler, et al v. Darnell Early that the plaintiffs lacked subject matter jurisdiction because the plaintiffs did not make their claim under SDWA.

Meanwhile, EPA is reiterating its commitment to improving drinking water nationally, announcing in an April 26 blog post by EPA water chief Joel Beauvais that it intends to release a national action plan on drinking water by the end of the year.

"Making sure that all Americans have reliable access to safe drinking water is essential, and a core task for EPA," Beauvais writes.

Beauvais notes the agency has already sent letters to every governor and state

environmental and/or health commissioner of states that implement SDWA, urging them to strengthen protections against lead as well as address other critical drinking water priorities (Inside EPA, March 4).

But the agency is taking additional steps, he writes, including launching in the coming weeks "a targeted engagement with key state co-regulators, regulated utilities, and nongovernmental stakeholders on priority issues related to implementing the Safe Drinking Water Act."

These additional issues for discussion will include addressing environmental justice and equity in infrastructure funding and developing strategies to prioritize and address the challenges posed by emerging and unregulated contaminants such as algal toxins and perfluorinated compounds.

"In each of these areas, we will work together with our partners and stakeholders to set a strategic agenda and identify and implement priority, near-term actions we can take in the coming months," Beauvais says. "By the end of this year, we will release a summary of our progress and a national action plan for the future."

At the same time as EPA's efforts, the President's Council of Advisors on Science and Technology (PCAST) is beginning a new study of the science and technology relevant to drinking water quality, Beauvais says.

"PCAST will seek input from EPA, other relevant agencies, and a wide range of experts on ideas on investments in new technology and infrastructure to protect drinking water resources, detect pollutants, advance treatment to remove contaminants and pathogens, and develop improved infrastructure for the future," he says.

Following the review PCAST will issue recommendations for the federal government to help "promote application of the best available science and technology to drinking-water safety," Beauvais says. "This builds on current efforts by the Administration to draw on the power of existing and breakthrough technology to boost innovation in water supply." -- Amanda Palleschi

Return to Top

News Headline: STATES, INDUSTRY QUESTION DEFAULTS IN DRAFT EPA WATER QUALITY METALS MODEL |

Outlet Full Name: Inside EPA
News Text: State regulators and various industries are raising concerns about EPA's proposed default inputs for a model used to estimate water quality criteria for levels of copper in water that will not harm aquatic species, with some questioning what they see as EPA overstepping states' responsibilities to set water quality criteria.

The agency released its "Draft Technical Support Document: Recommended Estimates for Missing Water Quality Parameters for Application in EPA's Biotic Ligand Model (BLM)," in February. The BLM is an ecological risk model designed to calculate site-specific copper water quality criteria and requires the use of 10 water quality input parameters. It could also accelerate the agency's delayed oversight of states' criteria for copper and potentially be used for water quality modeling for other metals.

EPA has proposed defaults for as many as eight of 10 inputs required to run the BLM model. These inputs describe the water's qualities, such as temperature, pH, and levels of seven geochemical ions like calcium, sodium and potassium among others.

But commenters are criticizing the stringency of EPA's default approach as well as raising concerns that the technical support document (TSD) has the potential to dictate how states must develop criteria rather than providing guidance that allows states to take into account state-specific concerns, and questioning the need for the document.

The Oregon Association of Clean Water Agencies (ORACWA), which represents stormwater and wastewater management agencies in the state, says in its April 18 comments that the TSD goes beyond guidance and "in reality, establishes a policy by directing the process for determining water quality standards. Oregon ACWA believes that such implementation procedures should be determined by the States," which "may have more objective, effective and scientifically accurate implementation strategies" than EPA. Relevant documents are available on InsideEPA.com. (Doc. ID: 190800)

Oregon is under pressure to establish EPA-approved water quality criteria for copper, after EPA in 2013 rejected that state's 2003 copper and cadmium criteria as insufficiently protective to meet the Clean Water Act (CWA). Due to the state's delay in developing new criteria, EPA in April proposed its own copper and cadmium criteria for Oregon but has said it will stop work on the EPA-developed criteria if Oregon finalizes new, EPA-approved criteria first.

Under the CWA, EPA reviews state-crafted water quality standards and can reject any rule changes that it finds to be insufficiently protective. Should EPA do so, the rule must be quickly replaced with stricter federal or state-crafted standards.

Oregon "ACWA recommends that the EPA provide a technical support document that emphasizes the importance of available data to apply the BLM and provides guidance on how states may elect to estimate data as needed," the group urges.

Meanwhile, Oregon's Department of Environmental Quality (DEQ) presses EPA for clarification that the document is not a requirement and that the agency will accept other scientifically appropriate approaches. The state explains in its April 18

comments that "one of Oregon DEQ's primary concerns is that EPA recognize other valid, defensible, and technically sound methods for estimating missing parameters for input to the biotic ligand model in addition to the approaches outlined in EPA's TSD. As you may be aware, DEQ has recently published our own technical support document evaluating the application of the biotic ligand model to copper standards in Oregon."

Oregon DEQ outlines the efforts its staff has undertaken to advance the BLM's use in its criteria, noting their similarity to EPA's approach, and that EPA staff were among the peer reviewers of Oregon's document. "However, DEQ evaluated additional methodologies to estimate missing parameters with data specific to local conditions ... In several situations, DEQ determined that the conservative assumptions used by EPA to estimate missing parameters, especially when multiple parameters are estimated, and in the likely situation where copper data must be evaluated without the benefit of measured parameter data to generate criteria using the BLM, were so stringent as to be impractical to many applications for [CWA] purposes," the state concludes.

Idaho Department of Environmental Quality writes in its March 17 comments that it is also crafting its own water quality criteria, but notes that because its "negotiated rulemaking" has a May 17 deadline, "it is highly unlikely that the final version of [the TSD] will be finalized in time for us to reference it in our rule . . . [which] will be in final form by November of this year."

The Gem State, like Oregon, also criticizes the stringency of EPA's approach, writing that using the 10th percentile "for each parameter is overly conservative and undermines the site-specific benefits of the modeled approach to criteria development." Idaho also argues that this approach "ignores the natural seasonable variability of these parameters" and that doing so "targets a condition that would not occur in nature."

And the Alaska Department of Environmental Conservation in its undated comments writes that it will be unable to use the defaults because it isn't confident that the data underlying EPA's default values reflect features unique to Alaska, such as permafrost. The state concludes, "without reference to data that support its use for Alaska-specific conditions, [we] cannot adopt the [EPA's] defaults' for estimating BLM inputs."

National groups representing CWA-permitted dischargers also criticize the TSD's stringency, with the Federal Water Quality Coalition saying that the recommended use of the 10th percentile of data sets for certain parameters "is far too conservative." The coalition represents trade associations, municipal groups and agriculture associations including the American Chemistry Council, the American Coke and Coal Chemicals Institute, the American Forest & Paper Association, the Association of Idaho Cities, General Electric Company, Johnson & Johnson and others.

"Site-specific criteria are typically derived assuming critical low-flow conditions, so are intended to be protective of aquatic life during minimal dilution conditions," says the coalition. "Many of the BLM water quality parameters would be expected to be elevated in concentration during such conditions. By choosing to use the 10th percentile default values in the Draft TSD, EPA is applying values that occur in moderate to high flow conditions, in a situation where low-flow values should be used instead."

The coalition argues that EPA should look to examples set by states that have crafted numeric biological criteria, and uses Ohio as an example. The group writes that the Buckeye State "set the minimal biological condition expectation at the 25th percentile of reference stream biological conditions. This recognizes that a significant percentage of all reference stream sites will not attain the ecoregion-based biological criteria in lowflow conditions, regardless of the causes."

The National Association of Clean Water Agencies (NACWA), which represents municipal wastewater utilities and stormwater agencies, also raises concerns in its April 18 comments about the stringency in the defaults, due to their use of 10th percentile data. Additionally, the group questions the need for the guidance. "NACWA is not aware of any utilities or states using the BLM that have requested guidance on the use of default parameters," adding that states and permit-seekers have worked together to collect any needed data. The group suggests that the defaults be used as a screen to determine where data collection is needed.

NACWA warns that from a permitting perspective, use of stringent defaults are concerning because anti-backsliding measures in the CWA "would make it difficult if not impossible to change . . . should more site-specific information become available."

The group adds that "in at least one EPA region, the Agency is pushing strongly for states to use defaults in developing permit limits and in making listing determinations in addition to incorporating use of the defaults for state standards," and argues that "EPA should not attempt to impose its policy preferences on the states."

But while NACWA and others question the need for EPA's defaults, a coalition of metals associations thanks EPA for providing the document, suggesting that it will make it easier for states to craft criteria where they lack local data.

"First and foremost, we would like to acknowledge and thank the US EPA for their willingness to develop the draft TSD and for its recognition that it is germane to metals beyond just copper," the groups write in their April 15 comments. "[T]he development of a scientifically supported method for generating estimated BLM parameter values is a practical approach that will enable regulatory agencies, permittees, and other stakeholders to achieve the benefits of the BLM that could not be possible in cases where measured data are insufficient or nonexistent." -- Maria

Hegstad

Return to Top

News Headline: NACWA ASKS COURT TO SCRAP EPA 'UNDERGROUND' WATER TESTING MANDATE |

Outlet Full Name: Inside EPA
News Text: The National Association of Clean Water Agencies (NACWA) is urging a federal district judge to back California wastewater utilities' suit where they claim EPA is improperly enforcing a guidance on water testing procedures as if it were a binding rule, arguing that the agency has a "pattern" of similar water actions that the court should halt.

NACWA, in an April 19 amicus brief to the U.S. District Court for the Eastern District of California, says EPA and California regulators are violating the Administrative Procedure Act (APA) by using an ostensibly non-binding agency memo to support mandating a new Clean Water Act (CWA) test method for wastewater permittees. The brief is available on InsideEPA.com. (Doc. ID: 190734)

The group continues that absent a court ruling holding the practice illegal, EPA will put similar conditions on regulated entities elsewhere.

"Not only do EPA's actions violate the APA, but if allowed to stand, they will have far-reaching impacts on public sewer and stormwater agencies" by legitimizing similar "underground rulemakings" in other regions, NACWA argues in its in Southern California Alliance Of Publicly Owned Treatment Works (SCAP), et al., v. EPA.

SCAP and its co-plaintiff Central Valley Clean Water Association are suing over action by EPA and California permit writers that required treatment works in the state measuring the toxicity of their effluent discharges to use a toxicity test known as the test of significant toxicity (TST), which the agencies argue is less accurate than other methods.

They claim that the state has treated EPA's guidance to the state accepting the TST as a valid test method as a binding requirement for all permits to use that test, and are seeking a ruling on when regulators can rely on ostensibly non-binding guidance to justify enforceable mandates such as permit limits.

EPA withdrew its original memo in 2015, leading Chief District Judge Morrison C. England Jr. to dismiss the case as mooted on May 15, but the plaintiffs have sought to re-open their suit. They say an internal memo written by California water regulators shows the state is still planning to enforce the TST despite EPA's withdrawal.

NACWA's amicus brief says EPA has a "pattern and practice" of working with states to force regulated entities to follow guidance as if it were a binding regulation.

"The State Board's Memo further demonstrates EPA's pattern and practice of mandating use of methods such as the TST though backdoor channels when their use is contrary to promulgated regulations," it says.

England is currently weighing whether to reopen the SCAP litigation. While the plaintiffs and NACWA are arguing that California's memo shows the case is not moot as England originally ruled, the Department of Justice (DOJ) on EPA's behalf is arguing that the utilities missed the proper time to add new evidence to their case and should instead file a separate suit.

DOJ is arguing that the groups are seeking to shift the focus of their suit from the 2014 TST approval letter to EPA's earlier guidances that first outlined the test as an option for permit writers. -- David LaRoss

Return to Top

News Headline: Schools getting $2M to help test for lead in drinking water |

Outlet Full Name: Associated Press
News Text: BOSTON (AP) - School districts that want to test for lead in their drinking water are getting a $2 million boost from the state.

The funding announced Tuesday will pay for technical assistance to help public schools sample their taps and water fountains. The testing will help identify results that show lead contamination over the federal action level.

Testing will focus on public school water fountains and fixtures used for food preparation.

Republican Gov. Charlie Baker said the goal is to ensure a safe learning environment.

The $2 million will come out of the state's clean water trust and be administered by the Massachusetts Department of Environmental Protection.

The money could help more than 1,700 schools design water sampling programs and assist those schools that test high for lead resolve the problem.

Return to Top

News Headline: Vermont to feds: Start regulating toxics or let us do it |

Outlet Full Name: Associated Press
News Text: MONTPELIER, Vt. (AP) - In a state where a potentially cancer-causing chemical has turned up in both private and public drinking water supplies, Vermont lawmakers have a message for the federal government: Step up regulation of these substances or let them do it.

The Vermont Senate was expected this week to approve a House-passed resolution, calling for the federal government to reform the 1976 Toxic Substances Control Act or give states more authority to regulate these chemicals.

About 84,000 largely unregulated chemicals are in circulation, with more than 1,000 new ones being added each year, the resolution says. In the past 40 years, just 200 of those chemicals have been fully tested, it says.

Congress currently is working on resolving differences in proposed updates to the law but at least agrees states should be restricted in some way from entering the regulatory field.

The resolution comes since the chemical, perfluorooctanoic acid, or PFOA, has been found in more than 100 private wells in North Bennington and a public water supply in Pownal. The properties are near now closed factories that used the chemical.

The same chemical has been found in drinking water systems serving 7 million people in 27 states, according to the Washington-based Environmental Working Group that says it based its figures on federal government data.

The federal Environmental Protection Agency said in an emailed statement that it is evaluating Vermont's resolution. The agency noted that when the law was originally passed, "the statute did not provide adequate authority for the EPA to reevaluate these existing chemicals as new concerns arose or science was updated. The law also failed to grant the EPA effective tools to compel companies to generate and provide toxicity data."

Sen. Brian Campion, D-Bennington, is to present the resolution to his Senate colleagues, possibly by Tuesday.

"It's heartbreaking," Campion told The Associated Press. "To have your friends and neighbors, who've been told their water is contaminated, the water they've been drinking. And the potential impact on housing prices, economic development."

Vermont has been checking other areas around where PFOA or related chemicals are believed to have been used. Last week, officials announced none had been found on or around the grounds of the state fire academy in Pittsford, where firefighting foam that believed to have contained PFOA or a similar substance had been used.

Ken Cook, president of the Environmental Working Group, wrote to EPA Administrator Gina McCarthy last week to complain that the agency was dragging its feet in cracking down on the chemical and had insufficient data on where it might still be found.

"It is reasonable to suspect that further contamination is lurking in other communities' water nationwide, but without complete and reliable information about the locations of all facilities that made, used or disposed of PFOA, state and local authorities do not know where they should conduct additional testing," Cook wrote.

Return to Top

News Headline: Curt Spalding: Stormwater regulations will reduce pollution in waterways |

Outlet Full Name: Berkshire Eagle, The
News Text: BOSTON >> All across New England we keep seeing the same thing: rivers, ponds, and even coastal water showing signs of stress and decline due to excess nutrients and other pollutants that are deposited directly into waterbodies when stormwater flows after storms.

It's often most obvious in warm weather, when algae blooms can turn the water's surface a bright neon green. But even when not obvious to our eyes, water quality data confirm that the ecological health of our natural community is suffering.

The good news is that we have effective and affordable ways to work on this problem. Further, good old-fashioned New England common sense confirms that sometimes, low-tech is just as good as high-tech, and that preventing pollution makes better sense than cleaning the mess up later.

Here in Massachusetts, EPA and our Mass DEP colleagues have just released an updated general permit that will guide the actions for more than 200 municipalities. This will update stormwater management efforts across Massachusetts, meaning better protecting rivers, streams, ponds, lakes and wetlands from pollutants.

We've worked on this for a long time, and we've solicited a lot of input from the mayors, town managers and public works directors who will be charged with doing this work, as well as from watershed organizations and other stakeholders. We have listened to the input of local experts to develop an effective and state-of-the-art set of requirements and the tools to implement them maximizing flexibility so municipalities can tailor their efforts to their individual needs and local conditions.

Many of the solutions to our stormwater issues rely on commonsense tasks: sweeping roads to remove dirt and debris before entering storm drains; inspecting

drain pipes to ensure there are no sewer pipes illegally connected to them; routing stormwater to woods and lawns to allow Mother Nature to help filter out pollutants before they collect in our waterways.

EPA is aware of the concerns from taxpayers and government officials about adding costs to stretched-thin budgets. We've worked hard to tailor the updated measures so that municipalities already working to comply with current requirements should only see a modest increase. We've provided flexibility, extended deadlines and we will have a tool to help municipalities estimate their costs. We've made the effective date for the permit a full 18 months from now, so that local managers have time to build this work into their budget cycle.

We are proud to work with our state and local partners in an effort to better protect the lakes, streams and other water bodies we all cherish.

Curt Spalding is regional administrator of EPA's New England Office in Boston.

Return to Top

News Headline: EPA announces latest steps addressing Missouri landfill fire |

Outlet Full Name: Advocate Online, The
News Text: (AP) - The U.S. government says the owner of a burning suburban St. Louis landfill near buried radioactive waste has agreed to new measures meant to slow and help monitor the blaze. Hague says the company also will broaden a plastic cover over the landfill, partly to suppress odors and to block out oxygen that could feed the below-ground blaze http://www.stamfordadvocate.com/news/us/article/EPA-announces-latest-steps-addressing-Missouri-7382220.php EPA announces latest steps addressing Missouri landfill fire Updated 6:20 pm, Thursday, April 28, 2016 BRIDGETON, Mo. (AP) - The U.S. government says the owner of a burning suburban St. Louis landfill near buried radioactive waste has agreed to new measures meant to slow and help monitor the blaze. Environmental Protection Agency regional chief Mark Hague said Thursday that Republic Services will install temperature monitors and cooling loops, which are meant to control the underground fire's temperature. Hague says the company also will broaden a plastic cover over the landfill, partly to suppress odors and to block out oxygen that could feed the below-ground blaze. The smoldering Bridgeton Landfill west of St. Louis is adjacent to the radioactively contaminated West Lake Landfill. Hague says there's no evidence that the underground fire is advancing rapidly. He says the moves Thursday were precautionary. View Comments

Return to Top

News Headline: EPA agrees to test water at Coakley landfill |

Outlet Full Name: Associated Press
News Text: NORTH HAMPTON, N.H. (AP) - The federal Environmental Protection Agency has agreed to test water for possible PFC contamination near the Coakley landfill in southeast New Hampshire.

The Portsmouth Herald reports (http://bit.ly/1N59vtO) Gov. Maggie Hassan said it's her understanding that the EPA has committed to testing areas around the landfill in Rye and North Hampton and is finalizing a plan for such testing.

North Hampton's Select Board wrote a letter to the EPA on Monday that requested testing at monitoring wells connected to the landfill and two nearby watersheds.

The letter also expressed local residents' concerns that an increasing rate of pediatric cancer in the area is tied to potential contamination at the landfill.

State Rep. David Borden says the EPA only agreed to test water at Coakley landfill, not in the two requested watersheds.

Information from: Portsmouth Herald, http://www.seacoastonline.com

Return to Top

News Headline: EPA Regional Haze Rule Revisions Offer Clarity But Could Delay Air Plans |

Outlet Full Name: Inside EPA
News Text: Site License Available Economical site license packages are available to fit any size organization, from a few people at one location to...

Return to Top

News Headline: LePage vetoes proposed fix to Maine Clean Election Fund |

Outlet Full Name: Associated Press
News Text: AUGUSTA, Maine (AP) - Gov. Paul LePage has vetoed a funding fix that the Maine Legislature approved for the Maine Clean Election Fund.

The fund makes public money available to qualifying candidates. The legislature approved an act earlier this month that advances $500,000 to the fund in August.

Supporters of the act say it would provide the minimal level of funding needed to

support candidates who are already running as "clean election" candidates for the upcoming election cycle.

LePage disagrees. The Republican governor says the clean election fund is perpetually underfunded because resources for election cycles are spent during the previous cycle. He says the bill would exacerbate the problem by a half million dollars.

Legislators will have a chance to override the veto.

Return to Top